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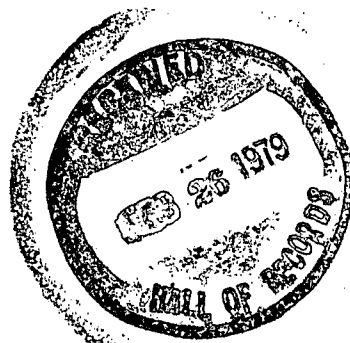
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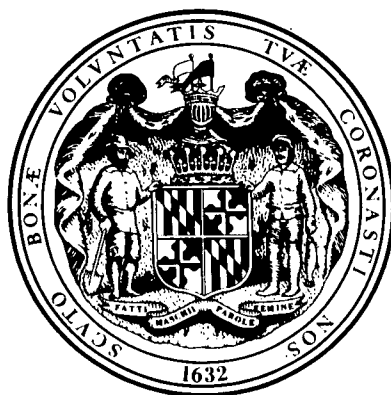
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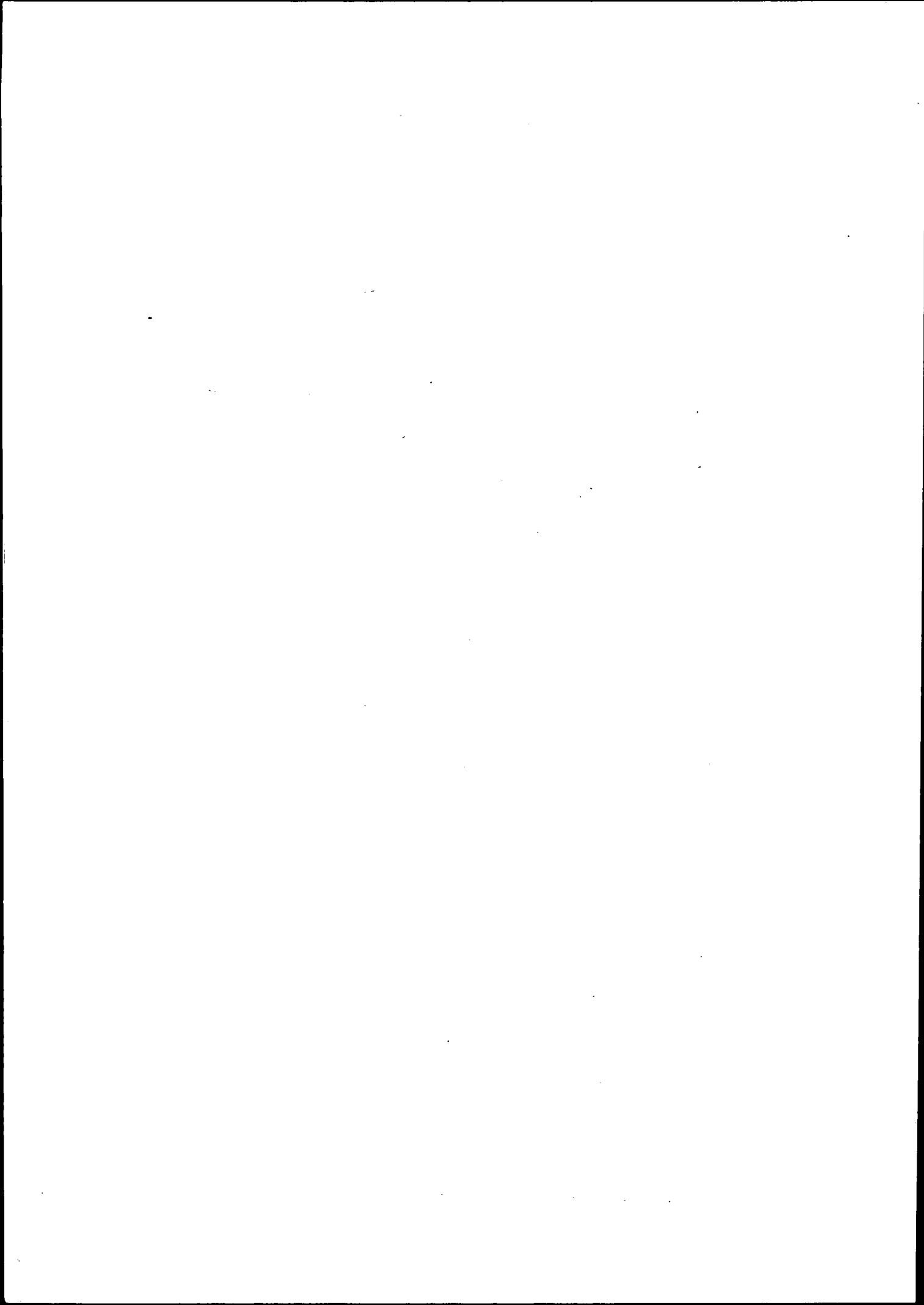
**MODEL GUIDE**  
**FOR**  
**DRAFTING BOARD, COMMISSION, AND**  
**LICENSING PROVISIONS**



Commission Draft 2 - January 1979

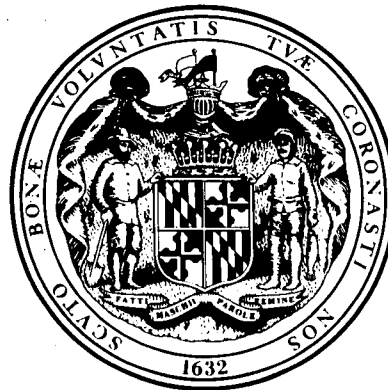


**Commission to Revise**  
**the**  
**Annotated Code of Maryland**



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2

MODEL	13
GUIDE FOR DRAFTING BOARD, COMMISSION, AND	15
LICENSING PROVISIONS	17
(Short title: Model Guide for Boards)	19
I. General Application.	22
The following is a model for the standard revision of board, commission, and licensing provisions in the Code. It originally was conceived in February 1977 to provide guidance for the revision of the present provisions of Article 43 of the Code that are designated for Title 19 concerning health occupations of the Health Article. The Model is written from the viewpoint of a revisor who must reflect the substance of existing health occupation laws and who must explain to the reader any apparent deviation from the content of those laws. Consequently, the Model uses the working vernacular and various drafting devices used by the staff of the Commission to Revise the Annotated Code. However, the Model -- updated several times since the original draft -- has proved to be a useful guide in drafting new board and licensing provisions. A drafter who wishes to use the Model for this, or any other purpose beyond its original scope, should take pains to understand the perspective from which its guidance is written and adapt it accordingly.	24 25 26 27 28 29 30 31 32 33 34 35 36 37
II. Application to Revision of Health Occupation Subtitles.	39
The guidance provided in this draft is not intended as a comprehensive statement of how each subtitle of Title 19 is to be revised. However, it should serve as a guide for the uniform ordering of many provisions, consideration of certain pertinent issues, and in many instances, it should provide the exact language to be used throughout the title.	41 42 43 44 45
It should go without saying that in most instances there must be source law provisions in each subtitle to support the adoption of the uniform language and, of course, any qualifying or unique provisions must not be deleted from	47 48 49 50

their respective subtitles. (In these cases, always consult 50  
with other Title 19 revisors to determine if they have 51  
similar provisions and to assure uniformity of language and 52  
organization in their revision.) However, the draft does 53  
propose in certain sections the adoption of uniform  
provisions even if the source law of a given subtitle does 54  
not expressly support the provision. The proposals are made 55  
only when the added language does nothing more than state a 56  
provision that is inherent in or fundamental to the scheme  
of things for all of the regulatory boards with which we are 57  
concerned.

Several of the proposed subtitles have numerous 59  
sections that will have no correspondence with the "Model". 60  
Any such provision will have to be revised according to its 61  
own peculiarities and integrated with the standard format in 62  
a logical manner. (However, before starting, check with  
other Title 19 revisors to determine if they have similar 63  
provisions and to assure uniformity of language and 64  
organization in their revision.)



TABLE OF CONTENTS	75
TITLE 19 MODEL	77
TITLE 19. HEALTH OCCUPATIONS.	80
SUBTITLE XX. _____.	82
PART I. DEFINITIONS; GENERAL PROVISIONS.	84
19-XX1. DEFINITIONS.	86
(A) IN GENERAL.	88
(B) BOARD.	90
(C) LICENSE.	92
(D) LICENSED _____.	94
(E) PRACTICE _____.	96
(F) [PRACTITIONER e.g., PHYSICIAN, PHARMACIST, SOCIAL WORKER, ETC.]	98 99
19-XX2. LEGISLATIVE POLICY.	101
19-XX3. SCOPE OF SUBTITLE.	103
19-XX4. RESERVED.	105
PART II. STATE BOARD OF _____.	107
19-XX5. BOARD ESTABLISHED.	109
19-XX6. MEMBERSHIP.	111
(A) COMPOSITION.	113
(B) QUALIFICATIONS.	115
(C) OATH.	117
(D) TENURE; VACANCIES.	119
(E) REMOVAL.	121

19-XX7. OFFICERS.	123
(A) IN GENERAL.	125
(B) ELECTIONS AND TERMS OF OFFICE.	127
(C) PRESIDENT.	129
19-XX8. QUORUM; MEETINGS; COMPENSATION; STAFF.	131 132
(A) QUORUM.	134
(B) MEETINGS.	136
(C) COMPENSATION.	138
(D) STAFF.	140
19-XX9. MISCELLANEOUS POWERS AND DUTIES.	142
(A) POWERS.	144
(B) DUTIES.	146
19-X10. ESTABLISHMENT OF FEES; DISPOSITION OF FUNDS.	148 149
(A) ESTABLISHMENT OF FEES.	151
(B) DISPOSITION OF FUNDS.	153
19-X11. RESERVED.	155
19-X12. RESERVED.	157
PART III. LICENSING.	159
19-X13. LICENSE REQUIRED [; EXCEPTIONS].	161
[ (A) IN GENERAL. ]	163
[ (B) EXCEPTIONS. ]	165
19-X14. QUALIFICATIONS OF APPLICANTS.	167
(A) IN GENERAL.	169
(B) MORAL CHARACTER.	171

(C) AGE.	173
(D) EDUCATION.	175
(E) ADDITIONAL REQUIREMENTS.	177
19-X15. APPLICATIONS FOR LICENSES.	179
19-X16. EXAMINATIONS.	181
(A) RIGHT TO EXAMINATION.	183
(B) TIME AND PLACE OF EXAMINATION.	185
(C) NOTICE OF EXAMINATION.	187
(D) SUBJECT AND METHOD OF EXAMINATION.	189
(E) REQUIRED GRADE.	191
<u>ALT. A</u>	193
19-X17. [RECIPROCAL] WAIVER OF EXAMINATIONS.	195
(A) IN GENERAL.	197
(B) CONDITIONS.	199
<u>ALT. B</u>	201
19-X17. RECIPROCAL WAIVER OF EXAMINATIONS.	203
(A) IN GENERAL.	205
(B) CONDITIONS.	207
(C) RECIPROCITY.	209
19-X18. ISSUANCE [AND CONTENTS] OF LICENSE.	211
(A) ISSUANCE.	213
(B) CONTENTS.	215
19-X19. SCOPE OF LICENSE.	217
19-X20. TERM AND RENEWAL OF LICENSES.	219
(A) TERM OF LICENSE.	221

(B)	APPLICATIONS FOR RENEWAL.	223
(C)	CONTINUING EDUCATION.	225
(D)	[OTHER REQUIREMENTS.]	227
(E)	NOTICES BY THE BOARD.	229
(F)	ISSUANCE OF RENEWAL.	231
19-X21.	INACTIVE STATUS; REINSTATEMENT OF EXPIRED LICENSES.	233
		234
(A)	INACTIVE STATUS.	236
(B)	REINSTATEMENT OF EXPIRED LICENSES.	238
19-X22.	DISPLAY AND RECORDATION OF LICENSES; CHANGE OF ADDRESS.	240
		241
(A)	DISPLAY.	243
(B)	RECORDATION.	245
(C)	CHANGE OF ADDRESS.	247
19-X23.	REPRIMANDS, SUSPENSIONS, AND REVOCATIONS [—GROUNDS AVAILABLE].	249
		250
19-X24.	[SAME—] HEARINGS.	252
(A)	RIGHT TO A HEARING.	254
(B)	APPLICATION OF ADMINISTRATIVE PROCEDURE ACT.	256
		257
[ (C)	SPECIFIC NOTICE REQUIREMENTS. ]	259
[ (D)	RIGHT TO COUNSEL. ]	261
[ (E)	ADDITIONAL RIGHTS ON HEARING. ]	263
19-X25.	ADMINISTRATIVE AND JUDICIAL REVIEW.	265
[ (A)	IN GENERAL. ]	267
[ (B)	STAY OF DECISION. ]	269
19-X26.	RESERVED.	271

19-X27. RESERVED.	273
PART IV. PROHIBITED ACTS; PENALTIES.	275
19-X28. PRACTICING WITHOUT LICENSE.	277
19-X29. MISREPRESENTATION.	279
[ (A) IN GENERAL. ]	281
[ (B) SPECIFIC REPRESENTATIONS PROHIBITED. ]	283
19-X30 & 19-X31. [Use as many sections as necessary for additional prohibitions, as per source law. ]	285 286 287 288
19-X32. RESERVED.	290
19-X33. RESERVED.	292
19-X34. PENALTIES.	294
PART V. [ SHORT TITLE; ] TERMINATION OF SUBTITLE.	296
19-X35. SHORT TITLE.	298
19-X36. TERMINATION OF SUBTITLE.	300

TITLE 19. HEALTH OCCUPATIONS.	311
SUBTITLE XX. _____.	313
PART I. DEFINITIONS; GENERAL PROVISIONS.	315
19-XX1. DEFINITIONS.	317
(A) IN GENERAL.	319
IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.	321
REVISOR'S NOTE: This subsection is new language used as the standard introductory language to a definition section.	325 326
See also §1-101 of this article for other applicable definitions.	330
(B) BOARD.	332
"BOARD" MEANS THE STATE BOARD OF _____.	334
REVISOR'S NOTE: This subsection presently appears as ... [or: "... is new language added to avoid unnecessary repetition in this subtitle of the full title of the Board."]	338 339
[In many present definitions of this sort, the source law refers to the statute under which a board is created. This reference should be	344 345

deleted, with the following revisor's note 346  
explanation:

"The present reference to the statute by which 351  
the Board is established (cf., §19-XX5 of this 352  
subtitle) is deleted as unnecessary."

In regard to a possible change in the statutory 357  
name of the Board which change also must be 358  
reflected here, see §19-XX5 of the Model.]

(C) LICENSE. 361

"LICENSE" MEANS A LICENSE ISSUED BY THE BOARD UNDER 363  
THIS SUBTITLE TO PRACTICE \_\_\_\_\_. 364

REVISOR'S NOTE: This subsection is new language added 368  
to avoid unnecessary repetition in this subtitle 369  
of phrases such as "license to practice \_\_\_\_" 370  
and "a license issued under this subtitle".

(D) LICENSED \_\_\_\_\_. 372

"LICENSED \_\_\_\_\_" MEANS A \_\_\_\_\_ WHO IS LICENSED 374  
BY THE BOARD UNDER THIS SUBTITLE TO PRACTICE \_\_\_\_\_. 375

REVISOR'S NOTE: This subsection is new language added 379  
to avoid unnecessary repetition in this subtitle 380  
of phrases such as "individual licensed to  
practice\_\_\_\_\_" and "individual licensed under 381  
this subtitle".

Note that, on occasion, the term "licensee" may 385  
be found in this subtitle as a synonym for 386  
"licensed \_\_\_\_\_"; however, since "license" 387  
is defined in subsection (c) of this section, 387  
"licensee" need not be defined separately.

(E) PRACTICE \_\_\_\_\_. 389

"PRACTICE \_\_\_\_\_" MEANS TO \_\_\_\_\_. 391

REVISOR'S NOTE: This subsection presently appears as 395  
... [or, if a consolidation of more than one 396  
present definition — see notes after subsection  
(f): "... is new language derived without 397  
substantive change from ...."]

The definition is stated in the infinitive form 401  
to permit minor verb variations of the defined 402  
phrase, without taking these variations out of  
the scope of the definition.

[Note that in defining the profession practiced, 407  
delete the word "of". The form would be 408  
"practice audiology" means to ...."]

(F) [PRACTITIONER e.g., PHYSICIAN, PHARMACIST, SOCIAL 411  
WORKER, etc.]

"\_\_\_\_\_ " MEANS AN INDIVIDUAL WHO PRACTICES \_\_\_\_\_. 413

REVISOR'S NOTE: This subsection — which must be read 417



in conjunction with the definition of 418  
"practice \_\_\_\_\_" in subsection (e) of  
this section -- is new language added to provide 419  
an express definition of "\_\_\_\_"; it is stated in 420  
the standard form used to define the various  
health practitioners regulated under this title. 421

[When defining the practitioner of the 426  
profession, do not include any references to  
licensing. If the source law refers to the 427  
individual as "licensed", delete the reference  
and add a revisor's note explaining that the 428  
reference is deleted as unnecessary and that, 429  
where appropriate or otherwise required by the  
source law, the defined term "licensed \_\_\_\_\_" 430  
will be used.

Under these circumstances, the revisor is advised 434  
to exercise caution throughout the subtitle to 435  
retain the intent of the source law. If, for any  
reason, the source law provision is concerned 436  
only with a practitioner licensed in this State, 437  
the terms "licensed \_\_\_\_\_" or "licensee"  
must be used in the revision of that provision.] 438

GENERAL NOTE TO REVISOR

440

Consolidation and Standardization of Terms.

444

The general approach of this section is to 448  
consolidate in the revised definition of  
"practice (whatever occupation)" all of the 449  
substantive elements of the various defined terms 450  
that relate to the health occupation. For  
example, if the source law for social workers 451  
defines "practice of social work", "social work", 452  
and "social worker" by the use for each term of  
elaborate descriptive terminology, the collective 453  
terminology should be analyzed and a composite of 454  
the elements should be consolidated under the  
definition of "practice social work". Then, as 455

indicated in the Model, the term "social worker" 456  
simply would be defined as a person "who  
practices social work" and the term "license" 457  
would be defined as "a license to practice social  
work". The definition of "social work" would be 458  
deleted as redundant of the definition of 459  
"practice of social work".

At present there is an overwhelming lack of 463  
conformity between the subtitles in the  
terminology used to specify the individuals who 464  
have been granted the right to practice the 465  
various health occupations. The lack of  
conformity may even be found within the various 466  
subtitles. The existing terms used include  
"licensed", "registered", and "certified". The 467  
problem is aggravated by the fact that forms of 468  
terms such as "registered" and "certified" have  
different and legitimate meanings within the 469  
subtitles.

One goal of the revision of the health occupation 473  
subtitles in Title 19 should be to require 474  
standardization of usage and to avoid  
indiscriminate use of these various terms. At 475  
least, insofar as the provision in question  
applies to individuals whose right to practice is 476  
granted by this State, the following terms should 477  
be used as specified:

(1) "License" is the only term to be used 481  
to denote the privilege or right to practice that 482  
is issued by a State board. The adjective form  
"licensed" should be the only term used to 483  
signify an individual who holds a license.

(2) "Certificate" may be used to signify 487  
the actual sheet of paper used for documentation  
purposes, e.g., a license renewal certificate. 488  
"Certified" should not be used as a substitute 489  
for "licensed".

(3) "Registration" is to be used only to 493  
denote the administrative procedure by which a  
licensed individual's name is placed on a 494  
register (official roster). "Registered" should 495  
not be used as a substitute for "licensed".

Also in regard to the source law definitions, see 499  
the note under §19-X29, "Misrepresentation"

concerning the removal of certain provisions from 500  
the definition and revising them as substantive 501  
prohibitions under the "Prohibited Acts;  
Penalties" part of the subtitle.] 502

REVISOR'S NOTE TO SECTION: [As to organization and 507  
format see TR §§ 3-101 and 5-101.]

HE Title 19 Model  
HEALTH - Commission Draft 2  
1/4/79

§19-XX2

19-XX2. LEGISLATIVE POLICY.

516

[If there are source law provisions, they should be  
revised in this section.] 521

19-XX3. SCOPE OF SUBTITLE.

531

[This section will specify activities or persons that 536  
are included, excluded, or exempted from this subtitle. 537  
Generally, the section is used to state those  
activities of certain persons that are not "affected" 538  
or "limited" by the provisions of the subtitle. Note 539  
that such provisions should never be revised to say 540  
simply that "this subtitle does not apply to X".  
Generally the provision should say simply that the 541  
subtitle does not "affect" or "limit the rights of" X 542  
while he is performing a specified function or duty.]

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HEALTH - Commission Draft 2  
1/4/79

§19-XX4

19-XX4. RESERVED.

552

[Use two sections catchlined as "RESERVED" if there is  
no section dealing with "LEGISLATIVE POLICY" in this  
part; otherwise use one section.]

557

558

PART II. STATE BOARD OF \_\_\_\_\_ 568

19-XX5. BOARD ESTABLISHED. 570

THERE IS A STATE BOARD OF \_\_\_\_\_ IN THE DEPARTMENT. 572

REVISOR'S NOTE: This section is new language derived 576  
without substantive change from ....

It is set forth as a separate section for 580  
emphasis.

[The Health Committee has directed that the name of the 585  
Board should be revised according to the form of this 586  
Model section. If this form causes a change in present  
terminology, the change must be explained in the 587  
revisor's note. If the change merely consists of 588  
adding the word "State" to the existing board name, use 589  
the following explanation. "The word 'State' is added  
to achieve uniformity among the names of the health 590  
occupation boards that this title governs." If the 591  
change is caused by the substitution of the word  
"State" for the word "Maryland" or by the deletion of 592  
the word "Maryland", use the following explanation, as 593  
appropriate:

"The reference to the 'State Board of \_\_\_\_\_' 598  
is substituted for the present reference to 599  
'\_\_\_\_\_' . This change is made [to avoid the  
superfluity of the combined present references to 600  
'Maryland' and 'State' and] to achieve uniformity 601  
among the names of the health occupation boards  
that this title governs."

Note the need for corresponding changes in the 606  
revision of any other provision that cites the 607

HE Title 19 Model  
HEALTH - Commission Draft 2  
1/4/79

§19-XX5

full name of the Board, e.g.: in the definition  
of "Board" under §19-XX1(b) and, if the source  
law provides a short title, in §19-X35.]

607  
608



19-XX6. MEMBERSHIP.

618

(A) COMPOSITION.

620

(1) THE BOARD CONSISTS OF \_\_\_\_\_ MEMBERS 622  
APPOINTED BY THE GOVERNOR WITH THE ADVICE OF THE SECRETARY. 623

(2) OF THE \_\_\_\_\_ BOARD MEMBERS: 625

(i) \_\_\_\_\_ SHALL BE LICENSED \_\_\_\_\_[S]; AND 627

(ii) ONE SHALL BE A PUBLIC MEMBER WHO IS NOT A 629  
[as per the respective profession, e.g.: PHYSICIAN]. 630

(3) THE GOVERNOR SHALL MAKE THE APPOINTMENTS 632  
FROM A LIST OF NAMES SUBMITTED TO [either HIM or THE 633  
SECRETARY AND THE GOVERNOR] BY \_\_\_\_\_. THE NUMBER OF 634  
NAMES ON THE LIST SHALL BE [e.g.: THREE] TIMES THE NUMBER OF 635  
VACANCIES.

[Use this language if it is supported by the source 640  
law. The idea is to include in this subsection as 641  
contrasted with subsection (b) below:

(i) The method by which an individual becomes a 645  
board member, whether by appointment or election; and 646

(ii) Those requirements that the board as a whole 650  
must meet to establish the required composite, e.g., 651  
two members of the board are physicians, three members 652  
are pharmacists, and one member is a citizen at large  
or, as revised, a "public member".

See also Title 2, Subtitle 2 of the Transportation 656  
Article, on the Maryland Transportation Commission, if 657  
the source law deals with appointed members and ex  
officio members.

Note that the phrase "with the advice of the Secretary" 661  
is to be used as standard language even if the source 662  
law speaks in terms of the appointee being 663  
"recommended" by the Secretary. After considerable 664  
deliberation (in which representatives of the 665  
Governor's Office, the Health Department, and the 666  
Attorney General participated) the Commission concluded 667  
that standard use of "with the advice" would reflect 668  
the apparent intent of the law and, unquestionably, 669  
reflect the application of the law in practice. Of 670  
course, the use of a standard phrase also provides for 671  
uniformity of language in comparable provisions 672  
throughout the Title 19 subtitles. The underlying  
assumption is that even if the source law speaks of the  
"recommendation" of the Secretary, the recommendation  
is only advisory in nature. The Commission directed  
that this approach be brought to the attention of the  
General Assembly for its approval.]

(B) QUALIFICATIONS. 675

EACH MEMBER SHALL: 677

[This subsection should be used to specify the 682  
requirements that apply to each and every member, e.g., 683  
each member shall be a resident of this State.]

(C) OATH. 686

BEFORE TAKING OFFICE, EACH APPOINTEE TO THE BOARD SHALL 688  
TAKE THE OATH REQUIRED BY ARTICLE I, § 9 OF THE STATE 689  
CONSTITUTION.

[If source law does not specify this requirement, add 694  
it and then indicate in the revisor's note that it is 695  
added standard language.]

(D) TENURE; VACANCIES. 698

[Unless the source law indicates the contrary, use 703  
items (1) through (4) of this subsection as standard 704  
provisions.]

(1) THE TERM OF A MEMBER IS \_\_\_\_\_ YEARS. 707

(2) THE TERMS OF MEMBERS ARE STAGGERED AS 709  
REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARD ON 710  
[use the proposed effective date of the bill under which the 711  
revision is to be introduced, e.g.:] JULY 1, 1980.

[This language may be used unless the board is so new 715  
that the members will not have been appointed as of the 716  
effective date of the bill.

To properly draft a revisor's note, the revisor must 720  
advise the reader of any deleted source provisions that 721  
authorize the existing terms of the members and then  
must specify exactly the stagger of expiration of terms 722  
of the current members (i.e., those who will be serving 723  
on the effective date on the bill). The source law may 724  
or may not provide a clear indication of the existing  
stagger. In any event, this information must be 725  
confirmed. To this end, check the Maryland Manual and, 726  
if necessary, contact the appropriate office of the 727  
Health Department. If, after doing all this, the  
actual status of the staggers is still in question, 728  
check with the Appointments Office of the Governor.

For purposes of providing an appropriate explanation in 732  
the revisor's note, many examples may be found in the 733  
Education Article. See, for example, the revisor's  
notes to §§ 3-501, 13-102, 18-1004, 22-201, and 24-202. 734  
As these examples indicate, the needed explanation 735  
should vary depending on the particular situation with 736  
which one is confronted. Generally, however, use one  
of the variations of the following explanatory note. 737

[If the deleted provisions refer to the terms of 742  
members all of whom have already completed their 743  
terms, use one of the two following introductory  
phrases, as appropriate:] "The specific 744  
reference to the terms of the initial members  
[or, if members have been added to the original 745

board: Specific reference to the initial terms 746  
of the members] is deleted as obsolete. The  
continuing stagger created under that provision 747  
is covered now under subsection (d)(2) of this 748  
section. [Then, if the existing stagger is  
unequal: 'The terms of the members serving on 749  
[e.g.:] July 1, 1980 expire as follows: [e.g.:]  
(1) two members in 1981; (2) three members in 750  
1982; and (3) two members in 1983.'] [But if the 751  
existing stagger is equal: 'The terms of [e.g.:  
one third] of the members of the Board expire in 752  
each [even numbered] year.]"

If the deleted provisions refer to the terms of members 757  
any of whom have not completed their original term, the 758  
note should be modified. After using the appropriate  
lead-in phrase, substitute "deleted as unnecessary in 759  
light of subsection (d)(2) of this section" for the 760  
phrase "deleted as obsolete" and for the sentence that 761  
follows that phrase. Then use one of the two closing  
sentences, as indicated in the note.] 762

(3) AT THE END OF A TERM, A MEMBER CONTINUES TO 765  
SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES. 766

(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS 768  
BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A 769  
SUCCESSOR IS APPOINTED AND QUALIFIES.

(E) REMOVAL. 771

THE GOVERNOR MAY REMOVE A MEMBER FOR INCOMPETENCY OR 773

MISCONDUCT.

773

REVISOR'S NOTE: Subsections (a), (b), and (d) of this  
section presently appear as ....

777

Subsection (c) of this section is standard  
language added to this and, where necessary,  
corresponding sections of other subtitles of this  
title to state the duty of an individual  
appointed to any office of profit or trust to  
take the oath specified in Art. I, § 9 of the  
State Constitution [as amended by Question Number  
3, Ballot of November 7, 1978].

781

782

783

784

785

[If there is no express provisions supporting  
subsection (d) (3), include the following revisor's  
note:

790

791

"Subsection (d) (3) of this section is standard  
language added to this and, where necessary,  
corresponding sections of other subtitles of this  
title to provide for gaps in membership by  
indicating that a member serves until a successor  
takes office. This provision is supported by the  
cases of Benson v. Mellor, 152 Md. 481 (1927) and  
Grooms v. LaVale Zoning Board, 27 Md. App. 266  
(1975)."]

796

797

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799

800

[If there is not an express source provision to support  
subsection (d) (4), include the following revisor's

805

806

note:

806  
811 "Subsection (d)(4) of this section also is added  
as standard language. It follows from the  
812 requirement that there be staggered terms. An  
813 inherent aspect of staggered terms is that they  
must begin and end at set intervals.  
814 Consequently, this provision provides in effect  
815 that if a member is appointed after a term has  
begun, the member completes the rest of the term  
816 already begun - rather than beginning a new  
term."

821 Either continue as part of the above paragraph if it is  
822 used, or, if that note is not used, include the  
following as a standard revisor's note:

827 "As to the circumstances under which the  
828 provisions of the subsection [subsection (d)(4)  
of this section] are operative, see the General  
Revisor's Note to this title."

833 [A note to the following effect will be included in the  
General Revisor's Note to Title 19:]

838 "Under the 'Membership' section of each of the  
839 subtitles of this title, there is a subsection  
captioned 'Tenure; Vacancies'. A standard item  
840 included within each of those subsections  
provides that '(a) member who is appointed after  
841 a term has begun serves only for the rest of the

term and until a successor is appointed and 842  
qualifies'. That provision is applicable under  
the following circumstances: 843

(1) When a successor is appointed to 847  
replace a member who failed to complete a term —  
whether the failure is due to death, removal, or 848  
any other reason;

(2) When a member is appointed to succeed 852  
a member who has 'held over' to part of the next  
term — pending the delayed appointment and 853  
qualification of the successor; or

(3) When, under any other situation, a 857  
member takes office after a term has begun —  
e.g., at the completion of a term there is a 858  
delay in the appointment of a successor, but the 859  
member who served the prior term does not 'hold  
over', thus creating, at the start of the next 860  
term, a vacancy that is associated neither with  
the replacement of a member who served part of 861  
the current term nor with the completion of a 862  
term started by a 'holdover'."]

Subsection (e) of this section is new language 866  
derived without substantive change from Art. II,  
§15 of the State Constitution. For other 867

HE Title 19 Model  
HEALTH - Commission Draft 2  
1/4/79

§19-XX6

provisions on removal, see: Art. XV, §3 of the 868  
State Constitution, on suspension and removal for  
crimes; and Art. 41, §4 of the Code, on removal 869  
for failure to attend meetings.



19-XX7. OFFICERS.	878
(A) IN GENERAL.	880
FROM AMONG ITS MEMBERS, THE BOARD [ANNUALLY] SHALL	882
ELECT A _____, _____, AND _____.	883
(B) ELECTIONS AND TERMS OF OFFICE.	885
THE MANNER OF ELECTION OF OFFICERS [AND THEIR TERMS OF	887
OFFICE] SHALL BE AS THE BOARD DETERMINES.	888
(C) PRESIDENT.	890
....	892
[This section will contain the titles, tenure, and any	897
specific duties of whatever officers are provided for	898
in the subtitle.	
In subsection (a), the standard introductory phrase	902
"{f}rom among its members" should be added "for	903
clarity", unless otherwise provided in the source law.	
Subsection (b) also will be standard language added	907
"for clarity". If the source law does not specify an	908
annual or other specific term, include the phrase "and	
their terms of office".	909
Subsections (c) et seq. will include any specific	913
duties or other provisions relating to these officers,	914
as required by the source law.]	

19-XX8. QUORUM; MEETINGS; COMPENSATION; STAFF.	924
(A) QUORUM.	926
[ <u>Alternative A</u> - Where the source law (including, for purposes of these notes, any valid rule or regulation) requires a specific number of members for a quorum, and that number does <u>not</u> coincide exactly with a simple majority of the full authorized membership of the board (e.g., "six" or "four" of "nine" members), restate that provision as follows:]	931 932 933 934 935
SIX MEMBERS OF THE BOARD ARE A QUORUM.	938
[ <u>Notes as to Alternative A:</u> Retention of the specified number in the revision presumes that it is not but an obsolete reference to the majority of what was once a smaller board. For example, assume the board originally consisted of ten members and the statute called for a quorum of six; subsequently, the board was enlarged to 15 members, but the quorum provision was left unamended. Was this but an oversight, calling for a "corrective" change to require seven members (i.e., Alternative B); or must we assume that the General Assembly (or, in the case of a rule or regulation, the board) deliberately intended to retain the six-member quorum requirement? The revisor should flag any such problem for a case-by-case determination by the Committee.]	943 944 945 946 947 948 949 950 951 952
[ <u>Alternative B</u> - Where the source law -- whether by reference to a specific number that coincides with a simple majority of the full authorized membership (e.g., "five" of "nine" members) or by more general language -- or, in the absence of any source law, where actual practice requires a majority of the full authorized board membership for a quorum, restate that provision as follows, with an explanatory revisor's note as noted below:]	956 957 958 959 960 961
A MAJORITY OF THE FULL AUTHORIZED MEMBERSHIP OF THE BOARD IS A QUORUM.	964

[Alternative C - Where the source law clearly requires only a majority of the members actually serving at a given time, is ambiguous (e.g., "a majority of the members"), or is wholly silent, state the quorum provision as follows, with an explanatory revisor's note as appropriate:]

A MAJORITY OF THE MEMBERS THEN SERVING ON THE BOARD IS

A QUORUM.

[Notes as to Alternative C: As indicated, Alternative C is the language the Commission prefers to use if either: (1) The source provisions are ambiguous; or (2) The source law has no quorum provision. The Commission has instructed the staff to note to the General Assembly for its approval the application of Alternative C under these circumstances.]

(B) MEETINGS.

[Alternative A - Even if the source law has no provision as to its meetings, add the following "for clarity":]

THE BOARD SHALL DETERMINE THE TIMES AND PLACES OF ITS MEETINGS.

[Alternative B - Otherwise follow the source law, as follows:]

THE BOARD SHALL MEET AT LEAST \_\_\_\_\_ A YEAR, AT THE TIMES AND PLACES THAT IT DETERMINES.

(C) [COMPENSATION AND] REIMBURSEMENT FOR EXPENSES.

[Note that under all of the following alternatives, in the absence of a source provision to the contrary, an affirmative provision regarding reimbursement of expenses is to be included in each subtitle. Note

further that the particular source provisions of a subtitle may necessitate a modification of the following guidance.] 1015

[Alternative A - If the source law is silent both as to compensation and reimbursement for expenses, add the following as standard language:] 1019  
1020

EACH MEMBER OF THE BOARD IS ENTITLED TO REIMBURSEMENT 1023  
FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS 1024  
PROVIDED IN THE STATE BUDGET.

[Alternative B - If the source law has supporting affirmative provisions as to compensation and as to reimbursement for expenses, or if the source law only has a supporting affirmative provision regarding compensation, use the following:] 1029  
1030  
1031

EACH MEMBER OF THE BOARD IS ENTITLED TO: 1034

(1) COMPENSATION IN ACCORDANCE WITH THE STATE BUDGET; AND 1036

(2) REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET. 1038  
1039

[Alternative C - If the source law provides that a member is not entitled to compensation and is either silent or has an affirmative supporting provision as to reimbursement for expenses, use the following:] 1044  
1045  
1046

A MEMBER OF THE BOARD: 1049

(1) MAY NOT RECEIVE COMPENSATION; BUT 1051

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN 1053  
1054

THE STATE BUDGET.	1054
(D) STAFF.	1056
THE BOARD MAY EMPLOY A STAFF IN ACCORDANCE WITH THE STATE BUDGET.	1058
[ <u>Note</u> : Subsection (d) is to be added as standard language - absent source law to the contrary.]	1063
REVISOR'S NOTE: This section presently appears as ....	1068
[Alternative B] In subsection (a) of this section, the present provision calling for a quorum of [e.g.: "five members of the Board"] is restated, without substantive change, in more general language that refers to "a majority of the full authorized membership of the Board". This language conforms to similar provisions in other subtitles of this title and will accommodate possible future legislative changes in the number of members to be appointed to the Board, without the necessity of enacting a conforming change here. As to the current "full authorized membership" of the Board, see §19-XX6(a) (1) of this subtitle.	1072 1073 1074 1075 1076 1077 1078 1079
In regard to subsection (c) of this section,	1083
Standard State Travel Regulations are adopted by the Department of Personnel with the approval of	1084

HE Title 19 Model  
HEALTH - Commission Draft 2  
1/4/79

§19-XX8

the Board of Public Works.

1084

19-XX9. MISCELLANEOUS POWERS AND DUTIES. 1093

( NOTE REGARDING CONTENT OF THIS SECTION. 1096

I. IN GENERAL. 1098

The use of this section is to be limited. Its function  
is not to provide a comprehensive list of the powers  
and duties of the Board. Follow these basic rules: 1102  
1103

(1) Any reference to a specific power or duty  
that will appear elsewhere in the subtitle should be  
deleted as redundant. For example, references to  
providing for examinations of qualified applicants,  
establishing fees, or issuing licenses generally would  
be deleted as being redundant since they would appear  
elsewhere in the subtitle. 1107  
1108  
1109  
1110  
1111

(2) On the other hand, if a reference in this  
section of the source law adds to or qualifies a power  
or duty that is specified elsewhere in the revised  
subtitle, the source provision should be transferred to  
that other section, thus placing all relevant  
provisions on that power or duty in the same section. 1115  
1116  
1117  
1118

(3) If the source law specifies under its  
"Powers and Duties" section a provision that has  
adequate substance to it to stand alone, it should be  
taken out of the revised "Powers and Duties" section  
and drafted as an independent section. Thus, for  
instance, if the general rulemaking power of a board is  
tied to certain conditions and procedures, a separate  
section may be warranted. 1122  
1123  
1124  
1125  
1126

II. IN REGARD TO PROVISIONS RELATING TO BOARD  
INVESTIGATIONS, OATHS, SUBPOENAS, AND BOARD ENFORCEMENT  
POWERS. 1128  
1129

Particular attention should be given to source law  
provisions on board investigations, the administration of  
oaths, the issuance of subpoenas, and the powers of the  
board to enforce provisions of the subtitle. The approach  
taken in the revision should vary depending on how many of  
these provisions are included in the particular subtitle and  
on the scope of the particular provisions. Follow these  
rules: 1131  
1132  
1133  
1134  
1135  
1136

(1) If there are only one or two of these  
provisions, they are uncomplicated, and their scope is 1140  
1141

general (i.e., their application is not limited to proceedings under §19-X23, "Reprimands, Suspensions, and Revocations", or to any other specific program), they may be drafted under this section as miscellaneous powers and duties.

(2) If the source law contains a number of these general provisions, or if there are only one or two of these general provisions, but they have complicated provisions, they should be drafted under a new and separate section which should precede immediately the section on "Reprimands, Suspensions, and Revocations" (§19-X23 of the Model). However, in drafting the section, exercise caution not to limit inadvertently the general application of the powers involved — i.e., make certain that the language used indicates clearly the general application of the provisions.

For an example of a revision drafted under this approach, see §19-124, "Board Investigative and Enforcement Powers", in the "Audiologists" subtitle.

(3) If a source law provision relates only to a specific program, it should be drafted in conjunction with the program to which it applies (as per general guidance provided in this section). Depending on how complicated the particular provision is, this may be accomplished simply by adding a subsection to the section that sets out the program. (See for example §19-X24(f) of the Model which provides the proper place to draft oath and subpoena provisions that only relate to a proceeding brought under the "Hearing" section.) If the provision is too complicated to structure a workable subsection, a new section should be drafted to follow immediately the section that sets out the program. In this situation, exercise caution that appropriate language is used to show the direct relationship between the two sections. ]

(A) POWERS.

IN ADDITION TO THE POWERS SET FORTH ELSEWHERE IN THIS  
SUBTITLE, THE BOARD MAY:



(1) ADOPT RULES AND REGULATIONS TO CARRY OUT THE 1181  
PROVISIONS OF THIS SUBTITLE;

(2) ....; 1183

[Place under this subsection any other of the 1188  
provisions that are appropriate and discretionary and 1189  
that are broken down as such in the source law.

Note that item (1) of this subsection provides the 1193  
standard language that is to be used to specify the 1194  
general rulemaking power of a board. There must be  
source law to support the inclusion of this provision. 1195  
However, the power to adopt rules and regulations to 1196  
carry out the provisions of a subtitle is so 1197  
fundamental to the functioning of a regulatory board  
that in some instances the existence of such a power 1198  
may be inferred from a number of factors. These may 1199  
include various express but more specific rulemaking  
powers in the present law and the general power of the 1200  
Secretary to adopt rules and regulations under present 1201  
Art. 43, §206(k). For an example of such a situation, 1202  
see §19-1009 of the pharmacy subtitle.]

(B) DUTIES. 1205

IN ADDITION TO THE DUTIES SET FORTH ELSEWHERE IN THIS 1207  
SUBTITLE, THE BOARD SHALL:

(1) KEEP A LIST OF ALL \_\_\_\_\_ WHO ARE 1209  
CURRENTLY LICENSED;

(2) KEEP A RECORD [LIST] OF \_\_\_\_\_; AND 1211

(3) SUBMIT A [AN ANNUAL] REPORT TO \_\_\_\_\_; 1213

(4) ....; 1215

[These provisions will vary as to the source law. 1220

Generally, this section will list the powers and duties together unless the source law separates them. Then a bracketed revisor's note will be used to explain the division. If listed together, the introductory paragraph should read:]

"IN ADDITION TO THE POWERS AND DUTIES SET FORTH ELSEWHERE IN THIS SUBTITLE, THE BOARD HAS THE FOLLOWING POWERS AND DUTIES:

- (1) TO ...;
- (2) TO ...; AND
- (3) TO ...."

19-X10. ESTABLISHMENT OF FEES; DISPOSITION OF FUNDS.	1247
(A) ESTABLISHMENT OF FEES.	1249
[EXCEPT FOR THOSE FEES SPECIFICALLY SET BY THIS	1251
SUBTITLE,] THE BOARD MAY SET REASONABLE FEES FOR THE	1252
ISSUANCE AND RENEWAL OF LICENSES AND ITS OTHER SERVICES.	
[ <u>Note</u> : If the source law generally leaves fee-setting	1257
to the board, the above language should be used as	1258
standard. While this may deviate slightly from the	
literal language of the source, the revisor's note can	1259
justify the broad language as follows:	
"Subsection (a) of this section is revised to	1264
clarify the authority of the Board — under its	
broad rulemaking powers — to set reasonable	1265
fees for various of its services, in addition to	1266
those expressly stated in the present law.	
Although present Art. 43, §____ refers only to	1267
the establishment of fees for '_____',	1268
its provisions should not be read to preclude	1269
the imposition of fees in other instances, as	1270
appropriate. [See, e.g., present Art. 43,	
§____, which refers to a '_____ fee'."]	1271
Note Also: If the source law used in this section has	1276
a specific reference to the establishment of	1277
"registration" or "reregistration" fees, those	
references should be deleted. For a detailed	1278
explanation of the basis of this change, see the	
General Note to the Revisor and Commission under	1279
§19-X20 of the Model. In the revisor's note to this	1280
section, explain the deletion as follows:	

"The present reference to fees for	1285
['registration' and] 'reregistration' is deleted	
to conform with changes in terminology made	1286
throughout this subtitle. See the General	1287
Revisor's Note to this subtitle."	
The referenced General Revisor's Note to the subtitle	1292
is set out in the General Note to the Revisor under	1293
§19-X20 of the Model.]	
(B) DISPOSITION OF FUNDS.	1296
THE BOARD SHALL PAY ALL FUNDS COLLECTED UNDER THIS	1298
SUBTITLE INTO THE GENERAL FUND OF THIS STATE.	1299
[ <u>Note</u> : Subsection (b) should be included in the	1304
revision, even in the absence of a comparable source	1305
provision. This may be done "to conform with similar	
provisions in other subtitles of this title and with	1306
other requirements of law. See Art. III, §§ 32 and 52	1307
of the State Constitution and Art. 15A, §§ 1 through 15	1308
of the Code."	
If already in source law, explain deletion of specifics	1312
as follows:	
"As to subsection (b) of this section, the	1317
present requirement that disbursement of funds be	1318
in accordance with Art. III, §§ 32 and 52 of the	
State Constitution or Art. 15A, §§ 1 through 15	1319
of the Code, which relate to disbursements from	
the general fund of this State, is deleted as	1320
implicit in the requirement that the funds are	1321
part of the general fund of this State and, in	

any event, as unnecessarily repetitive of 1322  
independent provisions of law."]

19-X11. RESERVED.

1324

19-X12. RESERVED.

1326

PART III. LICENSING.

1335

19-X13. LICENSE REQUIRED [; EXCEPTIONS].

1337

[ (A) IN GENERAL. ]

1339

[ EXCEPT AS OTHERWISE PROVIDED IN THIS  
SECTION/SUBTITLE, ] AN INDIVIDUAL SHALL BE LICENSED BY THE  
BOARD BEFORE HE MAY PRACTICE \_\_\_\_\_ IN THIS STATE.

1341

1342

[ (B) EXCEPTIONS. ]

1344

THIS SECTION DOES NOT APPLY TO .... ]

1346

[Add this section as a standard provision even if there  
is no supporting source law. However, this section  
generally will be nothing more than a rephrased  
statement of the source law prohibition against  
practicing without a license. In that event, the  
pertinent source law should be reproduced both here and  
in §19-X28, "Practicing Without a License".

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If the supporting source prohibition requires that  
an individual be licensed "and registered" to  
practice \_\_\_\_\_, delete - as in §19-X28 of the  
Model - the reference to being "registered". Use the  
same explanation in the revisor's note to this section  
as provided in §19-X28.

1359

1360

1361

1362

As to the proposed "[e]xcept"-clause, this should be  
included if exceptions appear in this section, in  
§19-XX3, or elsewhere. If exceptions only appear in  
this section, use the phrase "IN THIS SECTION". In all  
other cases, use the phrase "IN THIS SUBTITLE" and add  
a cross-reference to the end of the revisor's note.]

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REVISOR'S NOTE: [If this section is based on a general  
source law prohibition against practicing  
without a license:] This section is derived  
from \_\_\_\_\_ and rephrased in the standard language

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1376

1377

used throughout this title to state affirmatively 1378  
that an individual must be licensed to practice  
a health occupation in this State. See also 1379  
§19-X28 of this subtitle.

[If this section is not based on such a source 1383  
provision:] This section is standard language 1384  
added to this and, where necessary,  
corresponding sections of other subtitles of 1385  
this title. It states a fundamental  
prerequisite implicit throughout the present 1386  
licensing provisions of Art. 43 that relate to  
the practice of \_\_\_\_\_. See also §19-X28 1387  
of this subtitle.

[If there are exceptions elsewhere:] As to the 1391  
referenced exceptions, see [also] §19-XX3 of this 1392  
subtitle.

19-X14. QUALIFICATIONS OF APPLICANTS.	1401
(A) IN GENERAL.	1403
TO QUALIFY FOR A LICENSE, AN APPLICANT SHALL BE AN	1405
INDIVIDUAL WHO MEETS THE REQUIREMENTS OF THIS SECTION AND	1406
THE EXAMINATION REQUIREMENTS OF THIS SUBTITLE.	
(B) MORAL CHARACTER.	1408
THE APPLICANT SHALL BE OF GOOD MORAL CHARACTER.	1410
(C) AGE.	1412
THE APPLICANT SHALL [e.g.:] BE AT LEAST 18 YEARS OLD.	1414
(D) EDUCATION.	1416
THE APPLICANT SHALL ....	1418
(E) ADDITIONAL REQUIREMENTS.	1420
THE APPLICANT SHALL MEET ANY OTHER [e.g.:]	1422
QUALIFICATIONS OR REQUIREMENTS THAT THE BOARD ESTABLISHES	1423
FOR LICENSE APPLICANTS.	
REVISOR'S NOTE: This section presently appears as ....	1427
[The source law for subsection (e) often will be	1432
found under the present "Powers and Duties"	1433
section, in which case it should be transferred	
here.	
Note that the terms "qualifications or	1437



HE Title 19 Model  
HEALTH - Commission Draft 2  
1/4/79

§19-X14

requirements" are used here as an example; the  
specific language should track that of the source  
law itself.]

1438

19-X15. APPLICATIONS FOR LICENSES.	1448
TO APPLY FOR A LICENSE, AN APPLICANT SHALL:	1450
(1) SUBMIT AN APPLICATION TO THE BOARD ON THE FORM THAT IT REQUIRES; AND	1452
(2) PAY TO THE BOARD AN APPLICATION FEE OF \$____ [or: THE APPLICATION FEE SET BY THE BOARD].	1454 1455
REVISOR'S NOTE: Item (1) of this section is standard language added to this and, where necessary, corresponding sections of other subtitles of this title. It states expressly a provision that presently only is implied in the law: i.e., that applications may be made only on the form required by the Board.	1459 1460 1461 1462
[The above note is an illustration of the manner in which similar changes should be noted throughout this subtitle where standard language has been added. There may be some subsections for which there is source law or some subsection may reflect part source law and the rest revision. In this event the note should be modified accordingly; see the sample note to §19-X16(d) and (e) of this Model.	1467 1468 1469 1470 1471
Note that the approach used in this section is to characterize the application and fee as an application and fee "for a license" rather than an application and fee "for examination". Many of the present provisions are indiscriminate in their use of the terms "license application", "examination application", "license fee", and "examination fee". For any subtitle that provides for only one application and one fee,	1475 1476 1477 1478 1479 1480

the Model language should be used regardless of 1481  
the differing source law language. By this  
criterion, uniformity can be achieved throughout 1482  
the vast majority of the relevant Title 19  
provisions.]

[If, under item (2) of this section, the phrase "the 1486  
application fee set by the Board" is used, include the 1487  
following cross-reference in the revisor's note:

"As to the authority of the Board to set fees, 1492  
see §19-X10 of this subtitle."]

19-X16. EXAMINATIONS.	1501
(A) RIGHT TO EXAMINATION.	1503
IF AN APPLICANT OTHERWISE QUALIFIES FOR A LICENSE UNDER	1505
THIS SUBTITLE, HE IS ENTITLED TO BE EXAMINED AS PROVIDED IN	1506
THIS SECTION.	
(B) TIME AND PLACE OF EXAMINATION.	1508
[Alternative A - Even if the source law has no provision as to this matter, add the following "for clarity":]	1513
THE BOARD PERIODICALLY SHALL ADMINISTER EXAMINATIONS TO	1516
APPLICANTS AT THE TIMES AND PLACES THAT IT DETERMINES.	1517
[Alternative B - Otherwise follow source law, as follows:]	1522
THE BOARD SHALL ADMINISTER EXAMINATIONS TO	1525
APPLICANTS AT LEAST _____ A YEAR [or, as appropriate:	1526
EACH CALENDAR YEAR], AT THE TIMES AND PLACES THAT IT	1527
DETERMINES.	
(C) NOTICE OF EXAMINATION.	1529
THE BOARD SHALL NOTIFY EACH QUALIFIED APPLICANT OF THE	1531
TIME AND PLACE OF EXAMINATION.	
[Even if there is no supporting source provision, include this subsection as standard language.]	1536
(D) SUBJECTS AND METHOD OF EXAMINATION.	1539

THE BOARD SHALL DETERMINE THE SUBJECTS, SCOPE, FORM, 1541  
AND PASSING SCORE FOR EXAMINATIONS ADMINISTERED UNDER THIS 1542  
SUBTITLE.

[Use this language as a standard provision, unless the 1547  
source law is specific.]

(E) REQUIRED GRADE. 1550

[EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE,] AN 1552  
APPLICANT QUALIFIES FOR A LICENSE ONLY IF HE ATTAINS A 1553  
PASSING SCORE ON THE EXAMINATION.

[Use the "[e]xcept"-clause only if the subtitle 1558  
contains waiver provisions such as §19-X17 or other 1559  
specific exceptions.]

REVISOR'S NOTE: Subsection (a) of this section is 1564  
standard language added to this and, where  
necessary, corresponding sections of other 1565  
subtitles of this title, as discussed in the 1566  
General Revisor's Note to this title.

[A note to the following effect will be included in the 1571  
General Revisor's Note to Title 19:]

"Under the 'Examinations' section of most of the 1576  
subtitles of this title, there is included a 1577  
standard subsection captioned 'Right To  
Examinations'. The subsection is included to 1578  
provide expressly that an applicant who otherwise  
qualifies is entitled to an opportunity to meet 1579  
the final requirement for licensing -- i.e., the 1580

opportunity to take the required examination. 1580  
Stated from the other perspective, the subsection 1581  
simply states that the Board may not deny 1582  
arbitrarily an otherwise qualified applicant an  
opportunity to take the license examination. 1583  
This is a requirement of the present law which  
becomes clearer within the context of the revised 1584  
format used in the 'Examinations' sections of 1585  
this title. In any event, this provision  
reflects the requirements of the due process 1586  
clause under the 14th Amendment of the U. S.  
Constitution. See Douglas v. Noble, 261 U.S. 165 1587  
(1923); Schware v. Board of Bar Examiners, 353 1588  
U.S. 232 (1957); and Willner v. Committee on  
Character and Fitness, 373 U.S. 96 (1963). 1589  
  
Subsection[s] (b) [and (c)] of this section 1593  
presently appear as ....  
  
[If subsection (c) is not based on a source provision:] 1598  
Subsection (c) of this section is standard 1603  
language added to conform [with Board practice  
and] with present, similar provisions in Art. 43 1604  
that govern the examination process for licensing 1605  
by other health occupation boards. It provides  
an element of fundamental fairness by requiring 1606  
the Board to give qualified applicants notice 1607

before the administration of examinations.	1607
Subsections (d) and (e) of this section are	1611
derived in part from the first sentence of ....	
In essence, that sentence provides that an	1612
applicant must .... In addition, standard	1613
language is added to this and, where necessary,	
corresponding sections of other subtitles of this	1614
title to state expressly provisions that	
presently only are implied in the law: i.e., that	1615
the Board has control over [e.g.: the content,	1616
administration, and scoring of the required	
examinations.]	

ALTERNATIVE A [Base the revision on this alternative unless 1626  
the source law actually requires the board to make 1627  
agreements with the other state before a waiver can be 1628  
granted to a practitioner from that state.]

19-X17. [RECIPROCAL] WAIVER OF EXAMINATIONS. 1631

(A) IN GENERAL. 1633

SUBJECT TO THE PROVISIONS OF THIS SECTION, THE 1635  
BOARD MAY WAIVE ANY EXAMINATION REQUIREMENT [or: SHALL 1636  
WAIVE THE EXAMINATION REQUIREMENTS] OF THIS SUBTITLE FOR 1637  
AN APPLICANT WHO IS LICENSED TO PRACTICE \_\_\_\_\_ IN 1638  
ANY OTHER STATE.

(B) CONDITIONS. 1640

[Variation I - Use the following unless the source law 1645  
requires that at the time the applicant was licensed in 1646  
the other state, he was qualified to take the 1647  
examination that was then required by the law of this 1648  
State, i.e., unless the comparison of qualifications is 1649  
to be made in regard to the time that the applicant was  
first licensed in the other state.]

THE BOARD MAY GRANT A WAIVER UNDER THIS SECTION ONLY IF 1652  
THE APPLICANT:

(1) PAYS THE APPLICATION FEE REQUIRED BY [or: 1654  
SET BY THE BOARD UNDER] §19-X15 OF THIS SUBTITLE; AND 1655

(2) PROVIDES ADEQUATE EVIDENCE THAT: 1657



(i) HE MEETS THE QUALIFICATIONS OTHERWISE 1659  
REQUIRED BY THIS SUBTITLE; AND

(ii) HE BECAME LICENSED IN THE OTHER STATE AFTER 1661  
PASSING IN THAT [OR ANY OTHER] STATE AN EXAMINATION THAT IS 1662  
SIMILAR TO THE EXAMINATION FOR WHICH HE IS SEEKING THE 1663  
WAIVER.

[Variation II - Use the following only if the source 1668  
law requires that the comparison of qualifications is 1669  
to be made in regard to the time the applicant was 1670  
first licensed in the other state.]

THE BOARD MAY GRANT A WAIVER UNDER THIS SECTION ONLY IF 1673  
THE APPLICANT:

(1) IS AN INDIVIDUAL OF GOOD MORAL CHARACTER; 1675

(2) PAYS THE APPLICATION FEE REQUIRED BY [or: 1677  
BY THE BOARD UNDER] §19-X15 OF THIS SUBTITLE; AND 1678

(3) PROVIDES ADEQUATE EVIDENCE THAT: 1680

(i) AT THE TIME HE WAS LICENSED IN THE OTHER 1682  
STATE, HE WAS QUALIFIED TO TAKE THE EXAMINATION THAT THEN 1683  
WAS REQUIRED BY THE LAWS OF THIS STATE; AND

(ii) QUALIFIED FOR HIS LICENSE IN THE OTHER 1685  
STATE BY PASSING AN EXAMINATION ADMINISTERED IN THAT [OR ANY 1686  
OTHER] STATE.

(C) RECIPROCITY. 1688

THE BOARD MAY GRANT A WAIVER ONLY IF THE STATE IN WHICH 1690  
THE APPLICANT IS LICENSED WAIVES THE EXAMINATION OF 1691  
LICENSEES OF THIS STATE TO A SIMILAR EXTENT AS THIS STATE 1692  
WAIVES THE EXAMINATION REQUIREMENTS FOR INDIVIDUALS LICENSED 1693  
IN THAT STATE.

REVISOR'S NOTE: This section is new language derived 1697  
without substantive change from\_\_\_\_\_. Its 1698  
revision is patterned after the standard language  
used throughout this title for provisions that 1699  
allow or require waiver of examination  
requirements.

[1. As to subsection (b) (1) in Variation I and 1704  
subsection (b) (2) in Variation II: The use of the 1705  
simple word "by" indicates that the referenced  
section statutorily sets the fee. The use of the 1706  
phrase "by the Board under" indicates that the 1707  
referenced section merely authorizes the Board to  
set the fee.

2. As to subsection (b) (2) (ii) in Variation I of 1711  
both Alternatives A and B and subsection  
(b) (3) (ii) in Variation II of both Alternatives A 1712  
and B, give careful consideration to the addition 1713  
of the phrase "or any other". The effect  
intended by this addition is to allow a 1714  
practitioner who passed a licensing examination  
in one state and who was then waived into a 1715  
second state, to then qualify on the basis of his 1716  
license in the second state for a waiver in  
Maryland -- the third state. Commission guidance 1717  
requires that each board be questioned about the 1718  
application of its respective present statute.  
Unless the source law or board practice is 1719  
clearly contrary, the "or any other" phrase

should be included in the revision. The basis 1720  
for this change is to be fair to a practitioner 1721  
who, in the course of his professional career, 1722  
has moved from one state to another before he 1723  
finally moved to Maryland with the intent of  
practicing here.

In those subtitles in which the language is 1727  
added, include the following explanation in the 1728  
revisor's note:

"In subsection (b) (2) (ii) [or: (b) (3) (iii)] of 1733  
this section, the phrase 'or any other' state is 1734  
added to provide expressly that a [e.g.: speech 1735  
pathologist] who passed a licensing examination 1736  
in one state, and who then was waived into a  
second state, then may be waived by the Board 1737  
into Maryland - a third state - on the basis of 1738  
his license in the second state, which was  
acquired by waiver on the basis of being examined 1739  
and licensed in the first state. This provision,  
which is included in most of the subtitles of 1740  
this title and which conforms with Board 1741  
practice, allows the Board to give fair  
consideration under this section to a [speech 1742  
pathologist] who, in the course of his  
professional career, has moved from one state to 1743  
another before he finally moved to Maryland with 1744  
the intent of practicing here."

3. The revisor is responsible for making certain 1749  
that his revision reflects the intent of the 1750  
source law. In an area such as "waiver of  
examination" the Model provisions are, at best, a 1751  
guide that indicates how to revise that which 1752  
essentially is provided for in the source law.  
It should go without saying that this section of 1753  
the Model is not to be added as a standard  
provision unless there are substantiating source 1754  
provisions.]

ALTERNATIVE B [Base the revision on this alternative if the  
source law actually requires the board to make agreements  
with the other state before a waiver can be granted to a  
practitioner from that state.] 1764  
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19-X17. RECIPROCAL WAIVER OF EXAMINATIONS. 1769

(A) IN GENERAL. 1771

SUBJECT TO THE PROVISIONS OF THIS SECTION, THE BOARD 1773  
MAY MAKE A RECIPROCAL AGREEMENT WITH ANY OTHER STATE TO 1774  
WAIVE ANY EXAMINATION REQUIREMENT OF THIS SUBTITLE FOR AN 1775  
APPLICANT WHO IS LICENSED TO PRACTICE \_\_\_\_\_ IN THAT 1776  
STATE.

(B) CONDITIONS. 1778

[Variation I - Use the following under the same 1783  
circumstances described for Variation I under 1784  
Alternative A.]

AN AGREEMENT MADE UNDER THAT SECTION MAY ALLOW THE 1787  
BOARD TO GRANT A WAIVER ONLY IF THE APPLICANT: 1788

(1) PAYS THE APPLICATION FEE REQUIRED BY [or: 1790  
BY THE BOARD UNDER] §19-X15 OF THIS SUBTITLE; AND 1791

(2) PROVIDES ADEQUATE EVIDENCE THAT: 1793

(i) HE MEETS THE QUALIFICATIONS OTHERWISE 1795  
REQUIRED BY THIS SUBTITLE; AND

(ii) HE BECAME LICENSED IN THE OTHER STATE AFTER 1797  
PASSING IN THAT [OR ANY OTHER] STATE AN EXAMINATION THAT IS 1798  
SIMILAR TO THE EXAMINATION FOR WHICH HE IS SEEKING THE 1799  
WAIVER.

[Variation II - Use the following only under the same 1804  
circumstances described for Variation II under 1805  
Alternative A.]

AN AGREEMENT MADE UNDER THIS SECTION MAY ALLOW THE 1808  
BOARD TO GRANT A WAIVER ONLY IF THE APPLICANT: 1809

(1) IS AN INDIVIDUAL OF GOOD MORAL CHARACTER; 1811

(2) PAYS THE APPLICATION FEE REQUIRED BY [or: 1813  
BY THE BOARD UNDER] §19-X15 OF THIS SUBTITLE; AND 1814

(3) PROVIDES ADEQUATE EVIDENCE THAT: 1816

(i) AT THE TIME HE WAS LICENSED IN THE OTHER 1818  
STATE, HE WAS QUALIFIED TO TAKE THE EXAMINATION THAT THEN 1819  
WAS REQUIRED BY THE LAWS OF THIS STATE; AND

(ii) QUALIFIED FOR HIS LICENSE IN THE OTHER 1821  
STATE BY PASSING AN EXAMINATION ADMINISTERED IN THAT [OR ANY 1822  
OTHER] STATE.

(C) RECIPROCITY. 1824

AN AGREEMENT MAY BE MADE WITH ANOTHER STATE UNDER THIS 1826  
SECTION ONLY IF, UNDER THE AGREEMENT, THE OTHER STATE WAIVES 1827  
THE EXAMINATION OF LICENSEES OF THIS STATE TO A SIMILAR 1828

EXTENT AS THIS STATE WAIVES THE EXAMINATION REQUIREMENTS FOR 1829  
INDIVIDUALS LICENSED IN THAT STATE.

REVISOR'S NOTE: This section is new language derived 1833  
without substantive change from .... Its 1834  
revision is patterned after the standard language  
used throughout this title for provisions that 1835  
allow making the reciprocal agreements for the 1836  
waiver of examination requirements.

[See notes following Alternative A.] 1838

19-X18. ISSUANCE [AND CONTENTS] OF LICENSE.	1847
(A) ISSUANCE.	1849
THE BOARD SHALL ISSUE A LICENSE TO ANY APPLICANT WHO	1851
MEETS THE REQUIREMENTS OF THIS SUBTITLE.	1852
[Either use the source law language or indicate that	1857
this is standard language added to express the	1858
presently implied duty of the board to issue a license	
to a qualified applicant.]	1859
(B) CONTENTS.	1862
THE BOARD SHALL INCLUDE ON EACH LICENSE THAT IT	1864
ISSUES....	



19-X19. SCOPE OF LICENSE. 1873

A LICENSE ISSUED UNDER THIS SUBTITLE AUTHORIZES THE 1875  
LICENSEE TO PRACTICE \_\_\_\_\_ WHILE THE LICENSE IS 1876  
EFFECTIVE.

REVISOR'S NOTE: This section is a standard provision 1880  
added for clarity to this and, where necessary, 1881  
other subtitles of this title.

19-X20. TERM AND RENEWAL OF LICENSES.

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GENERAL NOTE TO REVISOR AND COMMISSION.

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I. Possibly the most difficult problem in these subtitles is the myriad, diverse schemes by which the present law provides for the renewal of licenses.

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The basic question arises as to whether a "license" is to be treated as a lifetime grant — subject, of course, to suspension or revocation — or a periodic "grant" which expires automatically at the end of a specified term unless renewed. Most of the subtitles do not state explicitly that a license has a "term"; yet many of these do speak of the periodic "renewal" of the license or, in some cases, periodic "reregistration" under the license.

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This section of the Model is premised on the existence of a periodic grant and most of the Title 19 subtitles should conform without difficulty to this pattern. However, for each subtitle, it will be necessary to examine independently the present renewal sections and any other provisions that might indicate the nature of the particular license. For some subtitles the statutes may not be very definitive in this regard. In this instance, the revisor should attempt to use the Model format to fill any "conceptual gaps" in the present law and then advise the Committee of those points of the revision that do not appear to be supported clearly by the present law.

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II. Several subtitles require a practitioner to be both licensed and "registered" and then — rather than have a periodic "license renewal" requirement — require him to "reregister" periodically. The question arises whether the privilege to practice (i.e., the license) under this scheme is conceptually different from the privilege to practice under those subtitles which merely provide that a practitioner must be licensed and that he must renew his license periodically.

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At first glance, one might think that the registration/reregistration procedure could relate only to a lifetime grant. However, on close analysis it is clear that — of themselves — these extra procedures do not account for any fundamental difference in the character of the

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grant. If the recipient is granted a privilege which expires automatically on failure to meet the renewal requirements, the privilege is "periodic" — even if the renewal requirement is labeled "reregistration". It is only a matter of semantics whether the renewal requirement is called a "license renewal" or "reregistration". Moreover, regardless of whether the legislative intent is to create a lifetime or a periodic grant, the inclusion of registration and reregistration provisions does not accomplish any substantive function that could not be accomplished more directly without them.

While the registration/reregistration provisions do not give rise to any bona fide difference in the character of a license, such provisions are confusing and misleading. The licensee has every right to expect that the procedures are meaningful — and he is very apt to believe that they somehow make his license into a lifetime grant. Even if the licensee has no concern whether his license constitutes a periodic or a lifetime grant, he is not well served by convoluted procedures and verbal distinctions that do not make any practical difference.

Clarity is always a goal of any Code Commission revision. Saying the same thing in the same way each time it has to be said helps achieve that goal. With this concept as its basis, the Commission has directed that, as to the few subtitles involved, all present requirements that a practitioner must be registered in order to practice be deleted and a license renewal procedure be substituted for any "reregistration" procedure.

In any subtitle in which the Committee's directive is relevant, changes to several sections will be required. Each change must be noted within the revisor's note to the section involved. These notes should be very short and should reference the General Revisor's Note of the subtitle to provide more extensive explanation. In the section corresponding to this section of the Model (§19-X20), the following revisor's note should be used to explain the substitution of references to "license renewal" for the present references to "reregistration":

"In subsection[s] \_\_\_\_\_ of this section, [or: Throughout this section,] the present references to 'registration' are deleted and the term 'license renewal' is substituted for the present

term 'reregistration'. These changes conform 1966  
with changes in terminology made throughout this 1967  
subtitle. See the General Revisor's Note to this 1968  
subtitle."

Examples of revisor's notes to other sections affected 1971  
by the directive are provided under §§ 19-X10 and 19-X28 of 1972  
the Model. These examples should be used as the basis for 1973  
explaining associated changes in every affected section of a 1974  
subtitle. The General Revisor's Note of the subtitle - to  
be cross-referenced in all the section revisor's notes on 1975  
this point - should include the following: 1976

"The present provisions of Art. 43 that govern 1981  
the practice of [e.g.:] medicine provide that as 1982  
a requisite to practicing in this State a [e.g.:]  
physician must be both licensed and registered. 1983  
The statutes then provide for periodic  
reregistration, i.e., periodic registration 1984  
renewal. On analysis, the Commission to Revise 1985  
the Annotated Code has found that these  
provisions serve no substantive purpose which 1986  
could not be accomplished more directly by the  
pattern followed under Art. 43 for the licensing 1987  
of most other health occupations. That pattern 1988  
simply requires that the practitioner be licensed  
and that he must renew his license periodically. 1989  
It is superfluous to specify an auxiliary  
procedure under which the practitioner also must 1990  
be registered to practice and which then 1991

substitutes a periodic reregistration requirement 1991  
for the periodic license renewal requirement. 1992  
Moreover, the references to registration and 1993  
reregistration may mislead the [e.g.:] physician  
by implying that his license is fundamentally 1994  
different from the license held by any of the  
other health practitioners who practice under 1995  
statutes without references to registration.

It is a precept of the Commission to revise the 1999  
law in a clear, straightforward manner, and once 2000  
something is said, to say it the same way each  
time it is said. To obtain clarity and 2001  
consistency and to avoid the superfluous and  
misleading aspects of the present references, 2002  
throughout this subtitle all references to the 2003  
requirement that a [e.g.:] physician must be  
registered are deleted and references to periodic 2004  
license renewal are substituted for all  
references to periodic reregistration. These are 2005  
changes in form only; no change in substance is 2006  
intended."

Note that the disposition of present references to 2009  
"registration" and "reregistration" may be complicated 2010  
further if the source provisions also are intended to  
require that the board maintain a register of licensed 2011  
individuals, i.e., keep a list of licensed individuals. In 2012  
this instance the revisor should revise that element of the 2013

HE Title 19 Model  
HEALTH - Commission Draft 2  
1/4/79

§19-X20

source provision as a duty of the board under the	2014
"Miscellaneous Powers and Duties" section of the Model,	
§19-XX9. Of course, the revisor's note to the "License	2015
Renewal" section then must indicate where that element is	2016
placed in the revised subtitle.]	

(A) TERM OF LICENSE.

2020

[Alternative (1) -- Where the statute provides for a specific calendar date of expiration or renewal, use the following:] 2025  
2026

A LICENSE EXPIRES ON [e.g.:] THE SEPTEMBER 30 AFTER ITS 2029  
EFFECTIVE DATE/THE SECOND SEPTEMBER 30 AFTER ITS EFFECTIVE 2030  
DATE, UNLESS THE LICENSE IS RENEWED FOR A [e.g.:] 2031  
1-YEAR/2-YEAR TERM AS PROVIDED IN THIS SECTION.

[Note: If the law or established practice makes all licenses expire in the same even-numbered or odd-numbered year, see subtitle on Pharmacists for format.] 2036  
2037

[Alternative (2) -- Where the statute does not provide for a specific calendar date, use the following:] 2043

A LICENSE EXPIRES ON THE [e.g.:] FIRST/SECOND 2046  
ANNIVERSARY OF ITS EFFECTIVE DATE, UNLESS THE LICENSE IS 2047  
RENEWED FOR A [e.g.:] 1-YEAR/2-YEAR TERM AS PROVIDED IN THIS 2048  
SECTION.

(B) RENEWAL NOTICE.

2050

[All subtitles should include a renewal notice provision. Subject to any affirmative qualifications or more extensive requirements of the source law, use the following:] 2053  
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AT LEAST 1 MONTH BEFORE A LICENSE EXPIRES, THE BOARD 2058  
SHALL SEND TO THE LICENSEE, BY FIRST CLASS MAIL TO HIS LAST 2059  
KNOWN ADDRESS, A RENEWAL NOTICE THAT CONTAINS A STATEMENT 2060  
OF:

(1) THE DATE ON WHICH THE CURRENT LICENSE 2062  
EXPIRES;

(2) THE DATE BY WHICH THE RENEWAL APPLICATION 2064  
MUST BE RECEIVED BY THE BOARD FOR THE RENEWAL TO BE ISSUED 2065  
AND MAILED BEFORE THE LICENSE EXPIRES; AND

(3) THE AMOUNT OF THE RENEWAL FEE. 2067

[If the subsection is new -- whether in its entirety or 2072  
in part -- an explanation must be provided in the 2073  
revisor's note. The following should be modified as 2074  
necessary to address any of the separate components of  
the subsection:

"Subsection (b) of this section -- which provides for 2079  
renewal notice -- [As to subsection (b) of this 2080  
section, item(s)\_\_\_] is [are] new language added to  
conform to current Board practice and to similar 2081  
provisions governing other health occupations in 2082  
present Art. 43. See, e.g., Art. 43, §634(c), as to  
psychologists, and Art. 43, §868(d), as to social 2083  
workers."]

(C) APPLICATIONS FOR RENEWAL. 2085

BEFORE HIS LICENSE EXPIRES, A LICENSEE PERIODICALLY MAY 2087  
RENEW HIS LICENSE FOR ADDITIONAL [e.g.: 2-YEAR] TERMS, IF 2088  
THE LICENSEE:

(1) [Here insert any specific, statutory 2090  
prerequisites not covered otherwise in this section]; 2091



(2) OTHERWISE IS ENTITLED TO BE LICENSED;	2093
(3) PAYS TO THE BOARD A RENEWAL FEE OF \$___ [or: THE RENEWAL FEE SET BY THE BOARD]; AND	2095 2096
(4) SUBMITS TO THE BOARD:	2098
(i) A RENEWAL APPLICATION ON THE FORM THAT IT REQUIRES; AND	2100
(ii) SATISFACTORY EVIDENCE OF COMPLIANCE WITH THE [ANY] CONTINUING EDUCATION [AND OTHER QUALIFICATIONS AND] REQUIREMENTS SET UNDER THIS SECTION [SUBTITLE] FOR LICENSE RENEWAL.	2102 2103 2104
[Item (2) of this subsection should be added uniformly "for clarity". As to items (3) and (4) (i), see §19-X15 and its notes.	2109 2110
Item (4) (ii) should be added "for clarity" if the source law contains or authorizes the board to establish any qualifications <u>in addition</u> to items (2) and (3) and (4) (i) — e.g., as in subsection (d) below or in the "Miscellaneous Powers and Duties" section. Thus, the revisor's note might state:	2114 2115 2116 2117
"As to subsection (c) of this section, items (3) and (4) are added for clarity, to reflect the authority of the Board under §19-XX9 of this subtitle and subsection (d) of this section to [e.g.: adopt standards and qualifications for continued licensing] and under §19-X10 to establish fees for	2122 2123 2124 2125

[e.g.: renewal of licenses]."	2125
If, under subsection (c) (3) of this section, the phrase "the application fee set by the Board" is used, include the following cross-reference in the revisor's note:	2130 2131
"As to the authority of the Board to set fees, see §19-X10 of this subtitle."]	2136
(D) CONTINUING EDUCATION.	2138
[If the source law provisions on the continuing education program are extensive, the revisor should consider placing the provisions in a separate "Continuing Education" section to follow immediately after this section.]	2143 2144 2145
(1) [IN ADDITION TO ANY OTHER QUALIFICATIONS AND REQUIREMENTS ESTABLISHED BY THE BOARD,] THE BOARD MAY/SHALL ESTABLISH CONTINUING EDUCATION REQUIREMENTS AS A CONDITION TO THE RENEWAL OF LICENSES UNDER THIS SECTION.	2148 2149 2150
(2) THE REQUIREMENTS ESTABLISHED UNDER THIS SUBSECTION MAY NOT/MAY/SHALL [Insert appropriate qualifiers here].	2152 2153
[As to the introductory phrase, "{i}n addition to...", see notes to §19-X14(e) of the Model.]	2158
(E) [OTHER REQUIREMENTS.]	2161
[As appropriate]	2163
(F) ISSUANCE OF RENEWAL.	2165

THE BOARD SHALL RENEW THE LICENSE OF [AND ISSUE A 2167  
RENEWAL CERTIFICATE TO] EACH LICENSEE WHO MEETS THE 2168  
REQUIREMENTS OF THIS SECTION.

[As to subsection (f), see note to its counterpart in 2173  
§19-X18(a) of the Model. The reference to issuance of 2174  
a renewal document shall be used only if supported by  
the source law; the term "renewal certificate" should 2175  
be used uniformly in each subtitle in place of the 2176  
diverse terms now used for the various professions.]

19-X21. INACTIVE STATUS; REINSTATEMENT OF EXPIRED LICENSES. 2186

(A) INACTIVE STATUS. 2188

(1) A LICENSEE MAY HAVE HIS LICENSE PLACED ON AN 2190  
INACTIVE STATUS, IF THE LICENSEE SUBMITS TO THE BOARD: 2191

(i) AN APPLICATION FOR INACTIVE STATUS ON THE 2193  
FORM REQUIRED BY THE BOARD; AND

(ii) THE INACTIVE STATUS FEE SET BY THE BOARD. 2195

(2) A LICENSEE ON INACTIVE STATUS MAY REACTIVATE 2197  
HIS LICENSE AT ANY TIME [e.g.:] BY COMPLYING WITH THE 2198  
RENEWAL REQUIREMENTS THAT EXISTED AT THE TIME HE WAS PLACED 2199  
ON INACTIVE STATUS.

[The preceding provisions on inactive status are by way 2204  
of example only. Inclusion of such provisions must be 2205  
based on existing source law and conform to its  
substance.]

(B) REINSTATEMENT OF EXPIRED LICENSES. 2208

[Alternative A - If there are source provisions 2211  
providing for reinstatement, use the following, as 2212  
appropriate:]

THE BOARD [, IN ACCORDANCE WITH ITS RULES AND 2215  
REGULATIONS,] SHALL [MAY] REINSTATE THE LICENSE OF A 2216  
\_\_\_\_\_ [WHO HAS NOT PLACED HIS LICENSE ON AN INACTIVE 2217  
STATUS AND] WHO HAS FAILED TO RENEW HIS LICENSE FOR ANY 2218  
REASON IF THE \_\_\_\_\_:

(1) [Here insert any specific, statutory prerequisites not covered otherwise in this section];

(2) MEETS THE RENEWAL REQUIREMENTS OF §19-X20 OF THIS SUBTITLE; AND

(3) PAYS TO THE BOARD A REINSTATEMENT FEE OF \$ \_\_\_\_ [or: THE REINSTATEMENT FEE SET BY THE BOARD]; AND

(4) SUBMITS TO THE BOARD SATISFACTORY EVIDENCE OF COMPLIANCE WITH THE QUALIFICATIONS AND REQUIREMENTS ESTABLISHED UNDER THIS SUBTITLE FOR LICENSE REINSTATEMENTS.

[In some instances, the source law will contain lengthy, convoluted provisions that -- when analyzed carefully -- fit into the simple pattern suggested here. Cf., e.g., Art. 43, §774(d), which refers to a nursing home administrator "whose registration has expired because he has temporarily abandoned the practice..., or has removed from the State, or for any other reason..."; since the law nowhere provides that the registration expires solely because of abandonment of the practice of leaving this State, it is reasonable to assume that the effect of the law is as stated in Alternative A.

Items (2) and (3) should be standard. Item (4) should be used only if the source law contains or authorizes the board to establish any qualifications in addition to items (2) and (3) -- e.g., under the "Miscellaneous Powers and Duties" section. See sample revisor's note in Alternative A to §19-X20.

Note: If the source law for this section contains references to the licensee being "registered" (e.g. that the licensee may place his license and "his registration" on inactive status, or that the licensee may reinstate his expired "registration"), delete the references to "registration" and substitute references to "license" as per the guidance provided in the General Note to Revisor and Commission under §19-X20 of

the Model.]

2258

[Alternative B - Even if the source law has no express provision as to the reinstatement of expired licenses, there is case law that, under certain circumstances, may provide a former license with the right to reinstatement without having to meet the initial qualification requirements. Kahn v. State Board of Examiners of Optometry, 162 Md. 667 (1932) held that since the pertinent license renewal requirement was intended only as a revenue raising measure, a former licensee who merely had failed to renew his license and who then sought reinstatement, could not be required to take again the examination that was required for new applicants.

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The statutory scheme under which Kahn was decided had no provision for establishing an inactive status, nor did it expressly address in any other way the status of an individual who had allowed his license to expire. Thus, the case was decided in the absence of any affirmative indication by the General Assembly of what procedures were to be followed for the reinstatement of an individual who has allowed his license to expire.

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Add the following note if:

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(1) the source law of a subtitle does not set any renewal requirement to establish the competence of a licensee to continue to practice, e.g., continuing education requirements, and

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(2) the source law does not specify any mechanism for individuals who do not renew, e.g., the setting of a procedure for changing the status of a license to "inactive" or the setting of any procedure for reinstatement of expired licenses:

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"See Kahn v. State Board of Examiners of Optometry, 162 Md. 667 (1932) for possible application to the status and rights of a former licensee who has failed to renew his license and

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HE Title 19 Model  
HEALTH - Commission Draft 2  
1/4/79

§19-X21

who then seeks reinstatement."]

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19-X22. DISPLAY AND RECORDATION OF LICENSES; CHANGE OF ADDRESS. 2311

(A) DISPLAY. 2313

EACH LICENSEE SHALL DISPLAY HIS LICENSE CONSPICUOUSLY IN HIS OFFICE OR PLACE OF EMPLOYMENT [BUSINESS]. 2315  
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(B) RECORDATION. 2318

EACH LICENSEE SHALL RECORD HIS LICENSE WITH THE \_\_\_\_\_. 2320

(C) CHANGE OF ADDRESS. 2322

EACH LICENSEE SHALL NOTIFY THE BOARD OF ANY CHANGE IN HIS ADDRESS. 2324

[Many of the subtitles will not have any provisions subject to revision in this section. As to subsection (b), this provision is intended to refer to required recordation with entities other than the board — e.g., a specified court.] 2329  
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19-X23. REPRIMANDS, SUSPENSIONS, AND REVOCATIONS [ -- 2341  
GROUNDS AVAILABLE].

SUBJECT TO THE HEARING PROVISIONS OF §19-X24 OF THIS 2343  
SUBTITLE, THE BOARD[, ON THE AFFIRMATIVE VOTE OF A MAJORITY 2344  
OF ITS MEMBERS THEN SERVING, / ON THE UNANIMOUS VOTE OF ITS 2345  
MEMBERS THEN SERVING,] MAY [DENY A LICENSE TO ANY 2346  
APPLICANT,] REPRIMAND ANY LICENSEE OR SUSPEND OR REVOKE HIS  
LICENSE IF HE [IF THE APPLICANT OR LICENSEE]: 2347

(1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO 2349  
OBTAIN A LICENSE FOR HIMSELF OR FOR ANOTHER; 2350

(2) FRAUDULENTLY OR DECEPTIVELY USES A LICENSE; 2352

(3) IS CURRENTLY ADJUDICATED AS BEING A DISABLED 2354  
PERSON UNDER TITLE 13 OF THE ESTATES AND TRUSTS ARTICLE; 2355

(4) . . . . 2357

[Insert additional grounds as provided in the source 2362  
law.]

[The indicated alternatives as to voting should follow 2366  
the requirements of the source law. If the statute is 2367  
silent as to voting, no provision is necessary; in 2368  
fact, if the source law calls for a majority of a  
quorum, that provision should be deleted as an 2369  
unnecessary statement of the normal rule of procedure.

The reference to the power to reprimand a licensee is 2373  
to be included in all subtitles as standard. As to the 2374  
subtitles in which there are no express supporting  
source provisions, use the following revisor's note to 2375  
explain the addition:

"In the introductory paragraph of this section 2380  
and, where necessary, corresponding sections of 2381  
other subtitles of this title, the reference to  
the power of the Board to reprimand a licensee is 2382  
added to state specifically a power that is 2383  
inherent in the express power to suspend or  
revoke a license. [The addition is in conformity 2384  
with current Board practice]."

NOTE TO COMMISSION: The decision to add the reference 2389  
to reprimand is in accordance with the direction of the 2390  
Health Committee. In pertinent part, that guidance  
required that if, after researching the issue, the 2391  
staff found no authority dispositive of the issue of 2392  
whether or not reprimand was a "lesser included power" 2393  
of the board, we should include the power as a standard  
provision.

Also, present references to a "refusal to renew" should 2397  
be deleted uniformly, with the following explanatory 2398  
revisor's note:

"The present statement that the Board may 'refuse 2403  
to renew {a license}' for the specified reasons 2404  
is deleted as unnecessary in practice and  
misleading. Under §19-X24 of this subtitle, a 2405  
hearing would be required before any of the  
actions specified under this section may be 2406  
taken. As a consequence, there never would be an 2407  
occasion under this section for the Board to  
refuse to renew a license, because the Board 2408  
always would be obliged to grant a renewal

pending the hearing and a subsequent finding that 2409  
the licensee committed one of the acts specified 2410  
in this section. Once such a finding is made,  
the power of the Board to suspend or revoke the 2411  
license would suffice to achieve the intent of 2412  
the present statute. However, this revision is  
not intended to have any effect on the power of 2413  
the Board to summarily suspend a license under 2414  
certain circumstances, as provided in the  
Administrative Procedure Act. See Art. 41, 2415  
§250A(c) of the Code [as amended by Ch. 884, Acts 2416  
of 1978]".]

[Items (1) and (2) should be included in all subtitles 2421  
as standard. They are derived from like provisions in 2422  
the source law to "Pharmacists" and "Physicians". If 2423  
language is new, use this revisor's note:

"Items (1) and (2) of this section are new 2428  
language added to conform to similar provisions  
governing other health occupations in present 2429  
Art. 43. They state fundamental grounds for 2430  
disciplining a licensee — the use of fraud or  
deception to obtain a license for himself or 2431  
another and the fraudulent or deceptive use of a 2432  
license. For examples of such provisions in the  
present law, see present Art. 43, §130(h)(1), as 2433  
to physicians, and present Art. 43, 2434  
§266A(c)(1)(iii), as to pharmacists."

[Item (3) is standard language that should be used in all subtitles. Use as the supporting source law any provision that lists an adjudication of mental incompetence as a ground for board action. However, even if there is no supporting source provision, the item is to be included. 2439  
2440  
2441  
2442

If there is a supporting source provision which requires an adjudication of mental incompetency, use the following revisor's note—with the words in brackets as appropriate, depending on whether the present provision references a particular adjudicative procedure: 2446  
2447  
2448  
2449

"Item (3) of this section is revised in the standard language used throughout this title to provide a mechanism by which the health occupation boards may protect the public against the fundamental danger presented by a health practitioner who is mentally disabled. The revision substitutes the [provides a] specific procedure which, in the view of the Commission to Revise the Annotated Code, is most [comparable to and] reflective of the intent of the obsolete [general] procedure presently set forth in Art. 43, §\_\_\_\_\_ [cite the respective source provision]. 2454  
2455  
2456  
2457  
2458  
2459  
2460  
2461

If there is no source support for the item, use this revisor's note: 2466

"Item (3) of this section is standard language added to conform with the intent of similar provisions governing health occupations in 2471  
2472

present Art. 43. It provides a mechanism by 2473  
which the health occupation boards may protect  
the public against a fundamental danger--a health 2474  
practitioner who is mentally disabled."

If the source law specifies that mental incompetence is 2479  
a ground for board action, but there is no present 2480  
requirement that the finding of mental incompetence be 2481  
adjudicated, retain the source provision in addition to  
the standard provision. The addition of the standard 2482  
provision should be explained on the basis of 2483  
conformity.]

19-X24. [SAME --] HEARINGS.	2493
(A) RIGHT TO A HEARING.	2495
BEFORE THE BOARD [e.g.: TAKES ANY ACTION UNDER §19-X23	2497
OF THIS SUBTITLE], IT SHALL GIVE THE [LICENSEE/INDIVIDUAL	2498
AGAINST WHOM THE ACTION IS CONTEMPLATED] AN OPPORTUNITY FOR	2499
A HEARING BEFORE THE BOARD.	
(B) APPLICATION OF ADMINISTRATIVE PROCEDURE ACT.	2501
NOTICE SHALL BE GIVEN AND THE HEARING SHALL BE HELD IN	2503
ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE ACT.	2504
[(C) SPECIFIC NOTICE REQUIREMENTS.	2506
THE HEARING NOTICE TO BE GIVEN TO THE	2508
[LICENSEE/INDIVIDUAL] SHALL BE [e.g.:] SENT BY REGISTERED	2509
MAIL TO THE LAST KNOWN ADDRESS OF THE [LICENSEE/INDIVIDUAL]	
AT LEAST _____ DAYS BEFORE THE HEARING.]	2510
[(D) RIGHT TO COUNSEL.	2512
THE [LICENSEE/INDIVIDUAL] IS ENTITLED TO BE REPRESENTED	2514
AT THE HEARING BY COUNSEL.]	
[(E) ADDITIONAL RIGHTS ON HEARING.	2516
IN ADDITION TO THE OTHER RIGHTS AFFORDED BY THE	2518
ADMINISTRATIVE PROCEDURE ACT, THE [LICENSEE/INDIVIDUAL] IS	2519
ENTITLED TO ....]	

[(F) SUBPOENAS; OATHS. 2521

THE BOARD MAY ISSUE SUBPOENAS AND ADMINISTER OATHS IN 2523  
CONNECTION WITH ANY PROCEEDING UNDER THIS SECTION.] 2524

[Note that, in subsection (a) of this section, extreme 2529  
caution must be exercised in determining the exact 2530  
scope of applicability of the hearing provisions.  
Review and follow the source law carefully. However, 2531  
even if there is no express support in the source law, 2532  
the revised section should provide for a hearing before 2533  
the board may reprimand a licensee. If the source law  
expressly provides the power to reprimand but omits 2534  
coverage of that proceeding under the hearing 2535  
provisions, the expanded coverage may be explained with  
the following revisor's note: 2536

"Present Art. 43, §\_\_\_\_\_ does not require 2541  
expressly a hearing before the Board may  
reprimand a licensee. However, in conformity 2542  
with other specific present provisions of Art. 2543  
43, and to meet fundamental requirements of  
fairness, this section is revised in a manner 2544  
that clearly makes the hearing requirements of 2545  
this section and, consequently, the review  
procedures of §19-X25 of this subtitle apply to a 2546  
proceeding to reprimand a licensee."

If the source law does not provide expressly the power 2551  
to reprimand and, therefore, such a provision was added 2552  
under §19-X23, the corresponding change in the scope of 2553  
this section can be explained in the revisor's note as  
follows:

"The express inclusion of the power to reprimand 2558  
a licensee in §19-X23 of this subtitle—when read 2559

in conjunction with this section—results in new 2559  
express requirements that a hearing be held 2560  
before the Board may reprimand a licensee and,  
consequently, that the review procedures of 2561  
§19-X25 of this subtitle be available to the  
licensee following a final Board decision to 2562  
reprimand him. This change is made to conform 2563  
with other present health occupation board  
provisions of Art. 43 and to meet fundamental 2564  
requirements of fairness." 2565

Also as to subsection (a), while the scope of 2570  
procedures for which a hearing is provided will vary 2571  
according to the source law of each subtitle, the  
manner in which the hearing requirement is expressed 2572  
always should be based on the Model. In the absence of 2573  
a more elaborate source provision, every subtitle  
should include item (1) of subsection (a). If there is 2574  
no source support for that item, include the following 2575  
explanation in the revisor's note:

Subsection (b) will be the standard language used in 2579  
referring to the application of the Administrative  
Procedure Act with respect to hearings. The latter 2580  
subsections of this section should specify elements of 2581  
the source law that add to or modify the provisions of 2582  
the Administrative Procedure Act. (For an example of  
the application of this proposed scheme, see the draft 2583  
on Title 19, Subtitle 12, "Pharmacists".) Use the 2584  
following revisor's note as applicable and 2585  
appropriately modified:

"Subsection (b) of this section is standard 2590  
language added to this and, where necessary,  
corresponding sections of other subtitles of this 2591  
title. It demonstrates clearly the intended 2592  
application of the Administrative Procedure Act,



Art. 41, § 244 et seq. of the Code, to the 2593  
procedures for the administrative hearings 2594  
required by this section.

Subsections (c) through (e) of this section 2598  
include only those provisions that appear to  
elaborate substantively on or add to the 2599  
provisions of the Administrative Procedure Act. 2600  
Thus in subsection (e) of this section, [e.g.:  
the present references to the rights 'to hear and 2601  
examine the evidence', 'to cross-examine adverse  
witnesses', 'to present evidence and witnesses', 2602  
and 'to testify in his {one's} own defense'] are 2603  
deleted as essentially repetitious of rights  
already provided in the Administrative Procedure 2604  
Act.

As to subsection (d) of this section, the 2608  
statement that the individual is entitled to  
appear with counsel is implicit in the scheme of 2609  
the Administrative Procedure Act; however, since 2610  
this provision is stated explicitly in present  
Art. \_\_\_\_, § \_\_\_\_, it is retained in this section 2611  
as an expressed provision."

If there is no source law to support the oath and 2616

subpoena provisions under subsection (f) of this 2617  
section, and therefore that subsection is not included 2618  
under this section -- and if there is no provision 2619  
drafted elsewhere in the subtitle providing generally 2620  
for the issuance of subpoenas and the administration of  
oaths, add this note at the end of the revisor's note  
to this section:

"As to the issuance of subpoenas and 2625  
administration of oaths for the conduct of a  
hearing, see §2-103(o) of this article, which 2626  
gives the Secretary these powers. As the 2627  
revisor's note to that subsection indicates, the  
reference to 'Secretary' incorporates by 2628  
definition any 'designee' of the Secretary."

Also, in regard to subpoena and oath provisions, the 2633  
Health Committee has instructed the staff to make the 2634  
following recommendations to the General Assembly:

"The Commission to Revise the Annotated Code 2639  
recommends that the General Assembly consider  
adding to each subtitle of this title in which a 2640  
similar authority does not already exist a 2641  
provision that the Board, without reliance on the  
Secretary's power under §2-103(o) of this 2642  
article, may, in connection with any proceeding  
under this section, administer oaths to 2643  
witnesses. The General Assembly also may wish to 2644  
consider adding, where pertinent, a provision  
that the Board, without reliance on §2-103(o) of 2645  
this article, may issue subpoenas in connection 2646

with those proceedings. Specific provisions of 2646  
this sort already exist in the present law as to 2647  
the Commission on Medical Discipline under Art. 2648  
43, §130(i) and as to the Board of Examiners of  
Optometry under Art. 43, §378(b). 2649

The Commission also recommends that the General 2653  
Assembly consider adding to each subtitle of this 2654  
title a provision that provides for the  
enforcement of subpoenas issued by or on behalf 2655  
of the health occupation boards. In the opinion  
of the Commission, there is little effect in 2656  
having the power to issue subpoenas if there is 2657  
no corresponding mechanism for their enforcement.  
Examples of the type of provision recommended are 2658  
found in Art. 56, §306, as to the Board of 2659  
Registration for Foresters and §12-108 of the  
Transportation Article as to the Motor Vehicle 2660  
Administration."

These recommendations are to be made to the General 2665  
Assembly in the Commission Report on the Health Article 2666  
and need not be reproduced in each subtitle to which  
they are relevant.]

19-X25. ADMINISTRATIVE AND JUDICIAL REVIEW. 2676

(A) IN GENERAL. 2679

EXCEPT AS PROVIDED IN THIS SECTION FOR AN ACTION UNDER 2681  
§19-X23 OF THIS SUBTITLE, ANY PERSON AGGRIEVED BY A FINAL 2682  
DECISION OF THE BOARD IN A CONTESTED CASE, AS DEFINED IN THE 2683  
ADMINISTRATIVE PROCEDURE ACT, MAY:

(1) APPEAL THAT DECISION TO THE BOARD OF REVIEW 2685  
OF THE DEPARTMENT, AS PROVIDED IN TITLE 2, SUBTITLE 2 OF 2686  
THIS ARTICLE; AND

(2) THEN TAKE ANY FURTHER APPEAL ALLOWED BY THE 2688  
ADMINISTRATIVE PROCEDURE ACT.

(B) AN ACTION UNDER §19-X23. 2690

(1) ANY PERSON AGGRIEVED BY A FINAL DECISION OF 2692  
THE BOARD UNDER §19-X23 OF THIS SUBTITLE MAY NOT APPEAL TO 2693  
THE BOARD OF REVIEW BUT MAY TAKE A DIRECT JUDICIAL APPEAL. 2694

(2) THE APPEAL SHALL BE MADE AS PROVIDED FOR 2696  
JUDICIAL REVIEW OF FINAL DECISIONS IN THE ADMINISTRATIVE 2697  
PROCEDURE ACT.

[ (C) STAY OF DECISION. ] 2699

[Draft here as appropriate. Note that the 2702  
Administrative Procedure Act, under Art. 41, §255(c) of the 2703  
Code, speaks to whether a stay of an agency decision is 2704

available pending judicial review. That provision provides 2704  
that "[t]he filing of the petition does not itself stay 2705  
enforcement of the agency decision. Except as otherwise 2706  
provided by law, the agency may grant, or the reviewing 2707  
court may order, a stay upon appropriate terms." The source  
law of each subtitle must be read in close conjunction with 2708  
this provision to determine the overall effect of the law in 2709  
regard to that particular subtitle. The source provision 2710  
then should be revised accordingly and, to this end, an 2711  
explanation in the revisor's note may be necessary.]

[The language of the introductory paragraph of 2717  
subsections (a) and of the introductory phrase of 2718  
subsection (b) (1) of this section should be used even  
if the source law is more specific. For instance, even 2719  
if the source law only provides that review may be 2720  
obtained by a licensee whose license has been suspended  
or revoked, the Model language should be substituted. 2721

The narrow provisions of some of the present subtitles 2725  
are somewhat misleading because they appear to be an 2726  
exhaustive statement of when there is a right to  
judicial review. However, this determination may not 2727  
be based solely on the specific language of the 2728  
subtitle because of the more general, independent right  
to review of a contested case under the Administrative 2729  
Procedure Act. The standard Model language is keyed to 2730  
the APA, which provides for judicial review for any 2731  
person aggrieved by any final decision of an agency in  
a contested case. The case of a licensee whose license 2732  
has been suspended or revoked would be included — in 2733  
any event — under the general APA provisions.

Whether or not a situation constitutes a "contested 2737  
case" is a function of whether or not a person has a 2738  
right to a hearing. It may be that within the context  
of a particular subtitle the only cases that qualify as 2739  
"contested cases" are those specifically cited in the 2740  
present review provisions of the subtitle, because they 2741  
are in fact the same cases for which a hearing  
presently is required. Even under these circumstances, 2742  
use of the standard Model language would have no 2743  
substantive effect on the present law.

Several of the present subtitles use language similar 2747  
to that adopted in the introductory paragraph of 2748  
subsection (a) and in the introductory phrase of  
subsection (b) (1) of this section. While 2749  
standardization of the review language will not result 2750

in uniformity as to who has a right to review under 2750  
each subtitle (again, that is a function of when there 2752  
is a right to a hearing) it will result in a clear and  
uniform statement of how that determination is to be 2753  
made under each subtitle.

The balance of the provisions of subsections (a) and 2757  
(b) of this section are based on the combined 2758  
requirements of the Administrative Procedure Act and of  
Title 2, Subtitle 2, of this article regarding the 2759  
Board of Review of the Department. As noted above, the 2760  
Administrative Procedure Act provides, under Art. 41, 2761  
§255(a) of the Code, that judicial review may be  
obtained only after a "final decision" of an agency in 2762  
a "contested case". Proposed §2-205(c)(1) of the 2763  
Health Article provides that "[e]xcept as provided in  
paragraph (2) and (3) of this subsection, the Board 2764  
shall hear and determine any appeal from: (i) a 2765  
decision of the Secretary or any unit in the Department  
that is subject to judicial review under the 2766  
Administrative Procedure Act or under any other 2767  
provision of law;...." Proposed §2-206(f) of the 2768  
Health Article provides that a final decision of the 2769  
Department or any of its units is the decision of the 2770  
Board of Review of the Department, after an appeal to  
it. Therefore, as to the general procedure — which 2771  
applies to any case over which the Board of Review has 2772  
jurisdiction — a decision of the Board of Review is a  
prerequisite to judicial review. Subsection (a) of 2773  
this section reflects this general procedure of 2774  
administrative and judicial review for a person  
aggrieved by a board decision by requiring an 2775  
intermediate appeal to the Board of Review.

Proposed §2-205(c)(3) of the Health Article exempts 2779  
from the jurisdiction of the Board of Review matters 2780  
involving disciplinary actions of the health profession  
licensing boards and the Commission on Medical 2781  
Discipline. Subsection (b) of this section reflects 2782  
the consequence of that provision by expressly  
providing that a person aggrieved under the 2783  
"disciplinary" section of a subtitle may not appeal to 2784  
the Board of Review, but may obtain direct judicial  
review.

Use this revisor's note or an appropriate variation as 2788  
necessary:

"Subsections (a) and (b) of this section, which 2793  
are substituted for Art. 43, §\_\_\_\_, are standard

language used throughout this title to provide 2794  
for administrative and judicial review. The new 2795  
language is based on the combined requirements of  
the Administrative Procedure Act and of Title 2, 2796  
Subtitle 2 of this article regarding the Board of 2797  
Review of the Department.

The language used in the introductory paragraph 2801  
of subsection (a) and the introductory phrase of 2802  
subsection (b) (1) of this section conforms to the  
language of the Administrative Procedure Act, 2803  
which provides a right of judicial review of any 2804  
'final decision' of an agency in a 'contested  
case'. Whether or not a particular situation 2805  
constitutes a contested case depends on whether  
the complainant has a right to a hearing (see the 2806  
APA definition of 'contested case' in Art. 41, 2807  
§244 of the Code). To determine the scope of 2808  
review provided under this subtitle, this section 2809  
should be read in conjunction with the hearing  
provisions under §19-X24 of this subtitle. 2810

As to the application of subsections (a) and (b) 2814  
of this section, the Board of Review has general 2815  
jurisdiction over final decisions of the Board  
under this subtitle. Therefore, for most 2816  
actions, a decision of the Board of Review is a

prerequisite to judicial review. Subsection (a) 2817  
of this section reflects that general procedure. 2818  
The Board of Review, however, does not have  
jurisdiction over any disciplinary action taken 2819  
by the Board. Consequently, subsection (b) of 2820  
this section expressly provides for direct  
judicial review for persons aggrieved under 2821  
§19-X23 of this subtitle.

The only effect of the new language substituted 2825  
in [subsections (a) and (b) of] this section is 2826  
better coordination with the combined  
requirements of the APA and the provisions of 2827  
this article regarding the Board of Review.  
These provisions apply in any event. No 2828  
substantive change is intended.

As to the Board of Review of the Department, see 2832  
Title 2, Subtitle 2 of this article."

Recall that the guidance under §19-X24 of the Model 2837  
requires the revisor to make certain that the revised 2838  
section provides an opportunity for a hearing when a  
licensee has been reprimanded. (See the guidance 2839  
concerning reprimands under §§ 19-X23 and 19-X24 of the 2840  
Model.) Depending on the specific source law, this 2841  
directive will result in changes from the present  
hearing provisions of some of the subtitles. 2842

Any change in the scope of actions covered under the 2846  
hearing provisions will give rise to a corresponding 2847  
change in the scope of actions covered under the review 2848  
provisions under this section of the Model. (Note that



once the change is made under the hearing provisions, 2849  
such a change would follow under the "contested case" 2850  
criterion of the Administrative Procedure Act  
regardless of the adoption of the standard language 2851  
used in this section of the Model.)

Discuss subsection (c) as appropriate.] 2853

19-X26. RESERVED. 2856

19-X27. RESERVED. 2858

PART IV. PROHIBITED ACTS; PENALTIES.

2868

[NOTE: This part should contain only those prohibited acts that are subject to criminal penalties under §19-X34. Also, if the source law prohibits any violation of this subtitle, see the pertinent instructions under that section.]

2873

2874

2875

19-X28. PRACTICING WITHOUT LICENSE.

2878

[EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE,] A PERSON MAY NOT PRACTICE, ATTEMPT TO PRACTICE, OR OFFER TO PRACTICE \_\_\_\_\_ IN THIS STATE UNLESS LICENSED BY THE BOARD.

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2881

2882

[Add this section as a standard provision, even if there is no supporting source law. Thus:

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"This section is standard language added to this and, where necessary, corresponding sections of other subtitles of this title. It states a fundamental prohibition implicit throughout the present provisions of Art. 43 relating to the practice of \_\_\_\_\_."

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In some instances, there may be general supporting source law, but no reference to an "attempt" or "offer" to practice. These should be added:

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2901

"... to conform to similar provisions governing other health occupations in present Art. 43. See, e.g., [as to "attempt"] Art. 43, §489(a), as

2906

2907

to podiatrists, and [as to "offer"] Art. 43, 2908  
§768, as to nursing home administrators."

If the supporting source provision requires that an 2913  
individual be licensed "and registered" to practice, 2914  
delete the reference to being "registered". For a 2915  
detailed explanation of the basis of this change, see  
the General Note to the Revisor and Commission under 2916  
§19-X20 of the Model. In the revisor's note to this 2917  
section, explain the deletion as follows:

"The present reference to an individual being 2922  
licensed 'and registered' to practice 2923  
is deleted to conform with changes in terminology  
made throughout this subtitle. See the General 2924  
Revisor's Note to this subtitle."

The referenced General Revisor's Note to the Subtitle 2929  
is set out in the General Note to the Revisor under 2930  
§19-X20 of the Model.

As to the proposed "[e]xcept"-clause, this should be 2934  
added, as in §19-X13 of the Model, if exceptions appear 2935  
in that section, in §19-XX3, or elsewhere. Add the 2936  
following cross-reference in the revisor's note:

"As to the referenced exceptions, see §[§] 19-XX3 2941  
[and 19-X13] of this subtitle."}

'\_\_\_\_\_' -- are not expressed presently as 3018  
substantive prohibitions, they nevertheless are 3019

just that, as becomes clear when reading the 3019  
present definition in conjunction with present 3020  
Art. 43, §\_\_\_\_ (now §19-X28 of this subtitle)  
prohibiting the 'practice of \_\_\_\_' without a 3021  
license."]

19-X30 and 19-X31. [Use as many sections as necessary for 3031  
additional prohibitions, as per source law.] 3032

[The content of these sections will vary extensively 3036  
from subtitle to subtitle. Indicative of the types of 3037  
provisions that should be allocated to the section are  
the prohibitions against wrongful obtainment of a 3038  
license and against advertising, if subject to the 3039  
penalties of the section.]

19-X32. RESERVED. 3042

19-X33. RESERVED. 3044

[Two sections should be reserved for any subsequently 3049  
enacted prohibited acts.]

19-X34. PENALTIES.

3059

ANY PERSON WHO VIOLATES ANY PROVISION OF THIS 3061  
PART [OR OF §19-XXX {"\_\_\_\_\_"} OR §19-XXX {"\_\_\_\_\_"} OF THIS 3062  
SUBTITLE] IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS 3063  
SUBJECT TO A FINE NOT EXCEEDING \$\_\_\_\_\_ OR IMPRISONMENT NOT 3064  
EXCEEDING \_\_\_\_\_ OR BOTH.

[If a source provision prohibits a violation of "any 3069  
provision of this subtitle", it should be revised in 3070  
this section rather than under a "prohibited act"  
section. Then, rather than using the limited 3071  
references to "this part" or to specific sections of 3072  
this subtitle, this section should read "{a}ny person  
who violates 'any provision of this subtitle' is guilty 3073  
of a misdemeanor and ...."

Because of the differing approaches that the present 3077  
law takes in specifying which acts are prohibited and 3078  
subject to penalties, it may be particularly difficult  
to standardize the sections on "prohibited acts" and on 3079  
"penalties". Some of the present subtitles have 3080  
misdemeanor provisions together with their respective - 3081  
but varying - penalty provisions dispersed throughout;  
some have one section that enumerates whatever other 3082  
sections of the subtitle that are misdemeanors and 3083  
subject to specified fines; and - still others - have a 3084  
provision that states that any violation of the  
subtitle is a misdemeanor and subject to a specified 3085  
fine.

In the subtitles that have various provisions dispersed 3089  
throughout, there seems to be little contemplation or 3090  
logic in the specification of which violations  
constitute a misdemeanor and which penalty applies to 3091  
which violation.

Revise the source law according to the following rules: 3095

(1) As to scope of the "Penalties" Section: 3099  
Except for the addition of the standard prohibitions 3100  
set forth in §§ 19-X28 and 19-X29 of the Model, the  
scope and application of this section should follow 3101

that of the source law. Inconsistencies and 3102  
illogicality resulting from this should be pointed out  
to the Committee by way of bracketed revisor's notes. 3103

(2) As to penalty amounts: Those should be 3107  
consolidated, under the highest penalty provided, in 3108  
the following three groups:

(a) All penalties authorizing fines of 3112  
\$500 or less, but no imprisonment;

(b) All penalties authorizing fines of 3116  
more than \$500, but no imprisonment; and

(c) All penalties authorizing 3119  
imprisonment, with or without a fine. 3120

As to each specific statutory reference, add the 3124  
catchline in braces and quotes - as per the sample 3125  
draft - with the following revisor's note:

"In this section, the catchline{s} to {each of} 3130  
the referenced section{s} is/are added as an aid 3131  
to the reader only. It is/They are not intended  
to be part of the substantive law (cf. Art. 1, 3132  
§18 of the Code) and, for this reason, is/are 3133  
placed in brackets."

(3) Finally, if the source law states a minimum 3138  
penalty, delete that reference and include the 3139  
following explanation in the revisor's note:

"In this section, the present minimum penalty 3144  
[penalties] is [are] deleted to conform to the 3145  
statement of legislative policy contained in Art.  
27, §643, which sets forth the general rule that, 3146  
notwithstanding a prescribed minimum penalty, the 3147

HE Title 19 Model  
HEALTH - Commission Draft 2  
1/4/79

§19-X34

court nevertheless may impose a lesser penalty of 3147  
the same character."]



PART V. [SHORT TITLE;] TERMINATION OF SUBTITLE.	3156
19-X35. SHORT TITLE.	3158
THIS SUBTITLE MAY BE CITED AS THE [e.g.: "STATE NURSING	3160
HOME ADMINISTRATORS' ACT"].	3161
[Many of the subtitles will not have a provision	3164
subject to revision in this section.]	

19-X36. TERMINATION OF SUBTITLE.

3174

SUBJECT TO THE EVALUATION AND REESTABLISHMENT 3176  
PROVISIONS OF THE REGULATORY PROGRAMS EVALUATION ACT OF 3177  
1978, THE PROVISIONS OF THIS SUBTITLE AND OF ANY RULE OR 3178  
REGULATION ADOPTED UNDER THIS SUBTITLE SHALL TERMINATE AND  
§  
BE OF NO EFFECT AFTER [e.g.: JULY 1, 1983]. 3179

REVISOR'S NOTE: This section is new language derived 3183  
without substantive change from Art. 43, §\_\_\_\_.

As to the Regulatory Programs Evaluation Act of 3187  
1978, see Art. 41, § 484 et seq. of the Code.

Model Index  
Commission Draft 2

Section Page

A

ADMINISTRATIVE PROCEDURE ACT		
Application of.....	19-X24	80
APPLICATION FOR LICENSE		
Application form.....	19-X15	44
Fee.....	19-X15	44
APPOINTMENTS - OF BOARD MEMBERS		
Process.....	19-XX6	19

B

BOARD MEMBERSHIP		
Compensation.....	19-XX9	29
Composition.....	19-XX6	19
Oath to be taken.....	19-XX6	20
Qualifications.....	19-XX6	20
Reimbursement for expenses.....	19-XX9	29
Removal.....	19-XX8	28
Tenure.....	19-XX6	20
Term.....	19-XX6	21
Vacancies.....	19-XX6	20
BOARDS		
Appointments.....	19-XX6	19
Definition.....	19-XX1	8
Duties.....	19-XX9	35
Establishment.....	19-XX5	17
Meetings.....	19-XX8	29
Officers.....	19-XX7	27
Powers.....	19-XX9	34
Quorum.....	19-XX8	28
Staff.....	19-XX8	31

C

CONTINUING EDUCATION	
See "License renewal"	
COUNSEL	
See "Hearings"	
COMPENSATION	
See "Board Membership"	

D

DEFINITIONS		
General provisions.....	19-XX1	8

Model Index  
Commission Draft 2

Section Page

E

EXAMINATION - OF APPLICANTS

Grade.....	19-X16	47
Notice of.....	19-X16	46
Passing.....	19-X16	46
Right to take.....	19-X16	46
Subjects and Method.....	19-X16	46
Time and Place.....	19-X16	46
Waiver of Examination.....	19-X17	50

F

FEEES

Establishment.....	19-X10	37
--------------------	--------	----

FUNDS

Disposition.....	19-X10	38
General Fund.....	19-X10	38

H

HEARINGS

Notice requirements.....	19-X24	80
Right to.....	19-X24	80
Right to counsel.....	19-X24	80

L

LICENSE APPLICANTS - QUALIFICATIONS

Age.....	19-X14	42
Education.....	19-X14	42
Moral Character.....	19-X14	42

LICENSES

Defined.....	19-XX1	9
Display.....	19-X22	74
Inactive status.....	19-X21	70
Issuance.....	19-X18	58
Reinstatement of expired.....	19-X21	70
Renewal (General Discussion).....	19-X20	60
Applications.....	19-X20	66
Continuing education.....	19-X20	68
Notice.....	19-X20	65
Required.....	19-X13	40

Model Index  
Commission Draft 2

	<u>Section</u>	<u>Page</u>
Scope.....	19-X19	59
Term.....	19-X20	65
M		
MISREPRESENTATION		
Prohibited.....	19-X29	94
O		
OATHS		
Administration for Board proceedings.....	19-X24	81
Required for Board Members.....	19-XX6	20
OFFICERS		
Of Board.....	19-XX7	27
P		
PENALTIES		
For violation of subtitle.....	19-X34	98
For practicing without license.....	19-X28	92
POLICY		
Legislative.....	19-XX2	14
PROHIBITED ACTS		
Misrepresentation.....	19-X29	94
Practicing without a license.....	19-X28	92
R		
REPORTS		
Submission by Board.....	19-XX9	35
REPRIMANDS - OF LICENSEES		
Grounds - See "Revocations - of Licenses"		
REVIEW - OF BOARD DECISIONS		
Administrative.....	19-X25	86
Judicial.....	19-X25	86
REVOCATIONS - OF LICENSES		
After adjudication as disabled person.....	19-X23	75
Fraudulently obtaining or using license....	19-X23	75
RULES AND REGULATIONS		
Adoption by Board.....	19-XX9	35

Model Index  
Commission Draft 2

Section Page

S

SCOPE		
Of license.....	19-X19	59
Of Subtitle.....	19-XX3	15
SHORT TITLE		
Citation.....	19-X35	101
SUBPOENAS		
Issuance for Board proceedings.....	19-X24	81
SUNSET		
See Termination of Subtitle		
SUSPENSIONS - OF LICENSES		
Grounds - See "Revocations - of Licenses"		

T

TERM		
Of license.....	19-X20	65
TERMINATION		
Of subtitle (Sunset).....	19-X36	102

W

WAIVER - OF EXAMINATION		
See "Examination"		



